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UNITED NATIONS/IMCO CONFERENCE ON INTERNATIONAL CONTAINER TRAFFIC

Plenary meetings

SUMMARY RECORDS OF THE FIRST TO ELEVENTH PLENARY MEETINGS

held at the Palais des Nations, Geneva,
from 13 November to 2 December 1972

Acting President:	Mr. WILDSPEARE GUICCIARDI	Director-General, United Nations Office at Geneva
President:	Mr. ZOTOV	Union of Soviet Socialist Republics

The list of representatives attending the Conference appears in documents E/CONF.59/INF.2 and Corr.1.

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ABBREVIATIONS

AFCAC	African Civil Aviation Commission
CMEA	Council for Mutual Economic Assistance
ECA	Economic Commission for Africa
ECE	Economic Commission for Europe
IATA	International Air Transport Association
ICAO	International Civil Aviation Organization
IMCO	Inter-Governmental Maritime Consultative Organization
ISO	International Organization for Standardization
LASH	lighter aboard ship (system)
OAU	Organization of African Unity
OCAMM	African, Malagasy and Mauritian Common Organization
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
WHO	World Health Organization

E/CONF.53/SR.1

SUMMARY RECORD OF THE FIRST PLENARY MEETING

held on Monday, 13 November 1972, at 3.25 p.m.

Acting President: Mr. [illegible] Director General, United Nations Office at Geneva

OPENING OF THE CONFERENCE

The ACTING PRESIDENT declared the United Nations/IMCO Conference on International Container Traffic open.

Mr. Gad (Secretary-General of the Inter-Governmental Maritime Consultative Organization), speaking on behalf of the Secretary-General of the United Nations and on his own behalf, welcomed the participants to the Conference.

After thanking all those who had taken part over the past three years in the preparatory work for the Conference, he said that it was only after the fifty-third session of the Economic and Social Council, when the provisional agenda for the Conference had been approved by the Council in its resolution 1721 (LIII), that several additional questions had been included in the provisional agenda on the recommendation of the Inter-Governmental Preparatory Group.1/ It seemed that the discussion of those additional questions would not suffer as a result of the limited time allowed for their study prior to the Conference.

Containers had been in use for several decades. At first, they had been designed to carry fragile cargo, in order to prevent damage during trans-shipment operations from one mode of transport to another. Later, containers of relatively small sizes were used, particularly in Europe, to offer "door-to-door" service, mainly when the journey involved a rail or sea leg. At present, several hundred thousand "small" containers of that kind were being used in Europe, mainly in international traffic.

A [illegible] in the container revolution of the 1960's, large containers and specially-built container ships to accommodate them came into use. At present, when reference was made to "containerization", it meant that more recent type of container transport and not the movement of small containers on conventional transport + airport, although such movement was not negligible. Such "containerization" has made considerable strides in recent years, particularly in ship construction and port development. Although the number of fully cellular container ships still represented only approximately 3.5 per cent of the total number of cargo ships, their impact on world maritime transport was substantial because of their speed and capacity - the largest were capable of speeds of more than 30 knots and carried over 2,000 containers - and their port turn-around time.

1/ See E/5096, para. [illegible].

There were, at present, 312 fully cellular container ships in operation and 64 on order. Even if the building boom levelled off as needs were met, the trend was clear.

There had been a parallel increase in the number of container-handling facilities in ports, now that had increased the productivity of those ports. It was estimated that over 80 ports had container berths in operation or under development. While such facilities had so far only been developed in the industrialized countries, several developing countries were [illegible] in port planning which should enable them to take advantage of the development of containerization.

In inland transport as well, it had been necessary to adapt existing equipment and develop new equipment, in order to be able to move an increasing number of large containers. Scheduled container train services were now operated in many industrialized countries and that mode of transport was increasing substantially. The movement of containers by road and on inland waterways was also increasing.

Approximately 750,000 large containers were in use in land and water transport.

In air transport, small containers were used for the most part, but the introduction of large freight-carrying aircraft should encourage the use of large containers, particularly in combined transport operations including an air leg.

Countries which did not have the necessary infrastructure for the use of containers might have a choice of two solutions, namely, to retain the conventional (break-bulk) system of combined transport or to select one of the cargo-unitization methods, such as containers, roll-on/roll-off, the LASH system, etc. The Conference would no doubt provide an opportunity to discuss that question.

The safety record of container transport by sea was good. It was imperative that it should be maintained, and the conclusion of a convention, such as that for which a draft (E/CONF.59/23 and Corr.1, part II) was before the Conference, should greatly assist in achieving that goal.

International container traffic - inter-continental or regional - must not be hampered by formalities or technical requirements that varied from country to country. A Customs convention containing provisions similar to those included in the draft to be considered by the Conference (E/CONF.59/22 and Corr.1 and 2, part II) would make for a simplification of formalities and a unification or harmonization of procedures and technical requirements.

The Conference might also wish to make recommendations concerning other areas where formalities and controls affected international container transport, as well as recommendations concerning the standardization of containers.

It should also consider the question of the liability régime in combined transport, and it was to be hoped that it would endeavour to find solutions suitable for all.

In view of the rapid technical advances being made, the modalities for applying the solutions advanced to deal with the problems raised by the use of containers, whatever those solutions might be, should allow enough flexibility to ensure that the future use of improved methods or a segment could not be delayed.

The ACTING PRESIDENT suggested that the meeting should be suspended for half an hour, to enable delegations to hold consultations on the election of the officers of the Conference.

Mr. LIMA (Brazil) said that in his opinion that would be enough time. As the co-ordinator of the Group of 77, he proposed that the Conference should postpone the election of the President and the other officers until the following day, and that it should continue its work under the chairmanship of its Executive Secretary.

The ACTING PRESIDENT said that the consideration of the agenda could not officially begin until the President had been elected.

Mr. CHAVEZ-PIZARRO (Chile) proposed that the Conference should simply be adjourned until the following day.

Mr. DE SOTTO (Costa Rica), speaking as co-ordinator of the group of Latin American countries members of the Group of 77, supported that proposal.

[illegible] (Italy), while appreciating the need for consultations before the election of the President and the other officers, said it was extremely hoped that such consultations would not unduly delay the work of the Conference, which had only a limited amount of time at its disposal. He also noted that, in view of the technical nature of the Conference, the composition for the various offices should be based not only on the basis of the customary geographical distribution, but also on the basis of the technical competence of the potential nominees.

Mr. [illegible] (Sweden) supported the remarks of the representative of the Costa Rica. Referring to the statements by the representatives of Brazil the Costa Rica, he asked whether the work of the Conference, under that of the Ad Hoc Action Conference on Trade and Development, the group to be formally organized on the basis of the division of delegations into groups of countries.

The ACTING PRESIDENT said that, as the acting Executive, he did not consider it useful that meeting.

Mr. LIMA (Brazil) said that the representatives of the broader groups of the Group of 77 had not before the opening of the United Nations/[illegible] on International Container Traffic solely in order to be able to reach a position common to all the developing countries.

He proposed that the Conference should adopt the Italian representative's proposal.

That proposal was adopted.

The meeting rose at [illegible] p.m.

SUMMARY RECORD OF THE SECOND PLENARY MEETING

held on Tuesday, 14 November 1972, at 12.30 p.m.

Acting President: Mr. VITTACHI (United Nations Director-General, United Nations Office at Geneva)

President: Mr. ZORIN (Union of Soviet Socialist Republics)

ELECTION OF THE PRESIDENT (item 4 of the provisional agenda)

The ACTING PRESIDENT called for nominations for the office of President of the Conference.

Mr. LIMA (Brazil), speaking on behalf of the Group of 77 and on behalf of his own delegation, nominated Mr. Zorin (Union of Soviet Socialist Republics), whose experience of international meetings and specialized qualifications eminently fitted him for the office of President.

Mr. SKJEIE (Norway) and Mr. FLORIAN (Hungary) supported the nomination.

Mr. Zorin (Union of Soviet Socialist Republics) was elected President by acclamation and took the Chair.

The PRESIDENT thanked the Conference for his election, which he interpreted as a tribute to his country. With the active co-operation of all the participants, he was confident that the Conference would achieve its aim in the interests of world trade and of the international container transport system.

ADOPTION OF THE RULES OF PROCEDURE (item 5 of the provisional agenda) (E/CONF.59/10 and Corr.1 and Add.1)

The PRESIDENT invited the Conference to consider the draft rules of procedure for the Conference (E/CONF.59/10 and Corr.1).

Chapter I (Representation and credentials) Chapter II (Officers) and Chapter III (General Committee)

Rules 1 - 15

Mr. PFEIFFER (Executive Secretary of the Conference) said that the informal discussions which had taken place among heads of delegations had made it clear that joint meetings of Main Committees would not affect the composition of the General Committee in any way.

The text of amendments to the draft rules of procedure contained in document E/CONF.59/1 /Add.1 would not therefore need to be considered.

The Conference thus had before it only the draft rules themselves. The agreement reached by the heads of delegations concerning the number of Vice-Presidents would, however, necessitate two changes in those rules: the replacement of the word "twenty-two" between square brackets before the word "Vice-Presidents" in paragraph 1 of rule 6 by the word "twenty-five" and the rewording of the first sentence of rule 13 as follows: "There shall be a General Committee of twenty-nine members, which shall comprise the President and Vice-Presidents of the Conference and the Chairmen of the three Main Committees".

The PRESIDENT said that, if there were no comments, he would take it that the changes to rule 6, paragraph 1, and to rule 13 were acceptable to the Conference.

It was so agreed.

Mr. STANDEN (United Kingdom) said that his delegation had consented to the unusual arrangements made for the General Committee because it was anxious for the Conference to proceed with its substantive work as expeditiously as possible and also because of the technical character of the Conference. It wished, however, to place its view on record that the decision just taken did not constitute a precedent for other United Nations bodies, whether permanent or ad hoc.

Mr. REIN (United States of America) associated himself with that statement. The composition of the General Committee was the result of a combination of factors, including regional considerations and the importance of certain States in the field of container transport, that were peculiar to the present Conference.

Mr. GIELEN (Belgium) said he shared the views expressed by the two previous speakers.

The PRESIDENT said that the position of all three delegations would be duly placed on record.

Mr. LOBO (Brazil) said that there was nothing unusual in the number of Vice-Presidents agreed upon for the present Conference. The number of twenty-five had been chosen for purely practical reasons. The Conference was the master of its rules of procedure and its decisions in that respect had no implications for other international conferences or meetings.

Mr. QUARTEY (Ghana) associated himself with those remarks.

Rules 1 - 15, with the amendments to rule 6, paragraph 1, and rule 13, were adopted.

Chapter IV (Secretariat)

Rule 16 (Duties of the Executive Secretary and the Secretariat)

The PRESIDENT drew attention to the fact that two variants were suggested for paragraph 4 of rule 16.

Mr. STANDEN (United Kingdom) proposed the adoption of variant 1, which would leave the Conference free to decide at a later stage where and by whom its documents would be kept. He did not favour variant 2, because it seemed to prejudge the question of the future depositary of the instruments that would emerge from the Conference.

The PRESIDENT said that, if there were no further comments, he would take it that the United Kingdom proposal to adopt variant 1 for paragraph 4 of rule 16 was acceptable to the Conference.

It was so agreed.

Rule 16, with variant 1 of paragraph 4, was adopted.

Rule 17 (Statements by the Secretariat)

Rule 17 was adopted.

Chapter V (Conduct of business - plenary meetings)

Rules 18 - 28

Rules 18 - 28 were adopted.

Rule 29 (Basic proposals)

Mr. MASSON (Executive Secretary of the Conference) read out a list of the documents which the Secretariat suggested should be mentioned in rule 29 as basic proposals.

Mr. LOBO (Brazil) said that the Conference should not take any decision on the documents to be listed in rule 29 before it had studied the matter fully.

Mr. REIN (United States of America) said that the present text of rule 29 was confusing. Documents should not be described as "basic" merely because they had been submitted in advance of the opening of the Conference. In fact, the only two documents which could be regarded as having a special status were the draft Customs Convention on Containers (E/CONF.59/22 and Corr. 1 and 2, part II) and the draft International Convention for Safe Transport Containers (E/CONF.59/23 and Corr. 1, part II).

Mr. MASSON (Executive Secretary of the Conference) pointed out that rule 29 had been included in the draft rules of procedure in order to clarify the procedure for proposals and amendments laid down in rules 40 to 42.

Mr. LOBO (Brazil) said that the submission of proposals was fully covered in rule 30. He therefore proposed the deletion of rule 29.

Mr. OSANYA-NYYNDQUE (Kenya) supported that proposal.

Mr. STANDEN (United Kingdom) said that the deletion of rule 29 would mean that all documents already submitted to the Conference as basic proposals would have to be re-submitted. The rule should therefore be maintained.

Mr. ALLAF (Syrian Arab Republic) said that it would be difficult to make a distinction between "basic" and other documents, especially since important proposals might well emerge during the work of the Conference. His delegation was in favour of deleting rule 29, but if other delegations wished to maintain it, it considered that the word "basic" at least should be deleted.

Mr. REIN (United States of America) suggested that the problem might be solved by rewording rule 29 to state that documents submitted in writing and circulated prior to the opening of the Conference should qualify as proposals under rule 30. The only documents that seemed to him to call for special treatment were the two draft conventions.

Mr. MASSON (Executive Secretary of the Conference) said that the use of the word "basic" in rule 29, which had been taken from the rules of procedure of another international conference, might be unfortunate, but that rule had been included in the draft rules of procedure in order to avoid the need for the re-formulation of documents already before the Conference. To regard all documents circulated prior to the Conference as basic proposals would greatly complicate the work of the Conference.

Mr. VOSS (Sweden) said that it was quite common for conferences of the present type to treat draft conventions as basic documents and to designate them as such in the rules of procedure, but it was not usual to make any distinction among other documents. The Conference should therefore accept the United States proposal and designate the two draft conventions before it as basic documents.

The meeting rose at 1.20 p.m.

SUMMARY RECORD OF THE THIRD PLENARY MEETING

held on Tuesday, 14 November 1972, at 3.30 p.m.

President: Mr. ZOTOV Union of Soviet Socialist Republics

ADOPTION OF THE RULES OF PROCEDURE (item 2 of the provisional agenda)(concluded) (E/CONF.59/18 and Corr.1 and Add.1)

Chapter V (concluded)

Rule 29 (concluded)

Mr. REYNOLDS (Canada) proposed that the word "basic" should be replaced by the word "initial", on the understanding that the Executive Secretary would have a list of the documents in question circulated.

Mr. OSANYA NYYNDQUE (Kenya) proposed that rule 29 should be deleted and that the beginning of rule 30 should be reworded as follows:

"Conference documents and amendments thereto which have been prepared and circulated by the Secretariat and which are relevant to the Conference agenda shall be considered as having been properly submitted as proposals for the Conference. Other proposals and amendments thereto ...".

Mr. POLIVKA (Hungary) proposed that, in order to save time, rule 29 should be deleted but that the records of the Conference should show that note had been taken of the documents in question, a list of which would be communicated by the Executive Secretary.

Mr. REIN (United States of America) proposed, after consulting other delegations, that rule 29 should be amended to read as follows:

"Proposals submitted in advance of the Conference shall be considered as qualifying under rule 30. Documents E/CONF.59/22 and Corr.1 and 2 (part II) and E/CONF.59/23 and Corr.1 (part II) shall be considered as basic documents for the Conference".

Mr. MASSON (Executive Secretary of the Conference) suggested that the word "documents" in the second sentence of the United States amendment should be replaced by the word "proposals".

Mr. VOSS (Sweden) supported the United States amendment and the suggestion by the Executive Secretary.

Mr. LOBO (Brazil) also supported that amendment, which was similar to but simpler than the Kenyan amendment.

Mr. OSANYA-NYYNDQUE (Kenya) pointed out that the United States amendment retained the word "basic", which was the cause of the difficulty, since it appeared to suggest that documents submitted during the Conference were not as essential as those submitted in advance of its opening.

Mr. REIN (United States of America) stressed that, in his proposal, the term "basic" was applied only to the two draft conventions which were before the

Conference and on which the work of the First and Second Main Committees would in fact be based. The other proposals, whether submitted in advance of the Conference or not, would be of equal importance but had a different character.

Mr. OSANYA-NYYNDQUE (Kenya) said that he would not press his proposal.

The United States amendment was adopted.

Rule 29, as amended, was adopted.

Rule 30 (Other proposals and amendments)

Mr. MASSON (Executive Secretary of the Conference) drew attention to the fact that the Conference would have to take a decision on the words "invited to the Conference" which appeared in parentheses at the end of the second sentence, since an organization which had not been invited to the Conference might well submit a communication to it.

Mr. GROSSIN (France) proposed the deletion of the parentheses.

That amendment was adopted.

Rule 30, as amended, was adopted.

Rules 31-34

Rules 31-34 were adopted.

Chapter VI (Voting)

Rules 35-42

Rules 35-42 were adopted.

Rule 43 (Elections)

Mr. USHAKOV (Union of Soviet Socialist Republics) suggested that paragraph 1 should be amended; in his view, voting by secret ballot was not essential at a conference of a purely technical character, and could result in a waste of precious time.

Mr. OSANYA-NYYNDQUE (Kenya), supported by Mr. SAPOU KAPANVULE KALEJA (Zaire) and by Mr. STANDEN (United Kingdom), said that it was preferable to retain the provision in question, which applied to all United Nations organs in general, particularly since the latter part of the paragraph allowed the Conference to dispense with a secret ballot when it was not essential.

Mr. USHAKOV (Union of Soviet Socialist Republics) withdrew his proposal.

Rule 43 was adopted.

Rules 44-46

Rules 44-46 were adopted.

Chapter VII (Committees)

Rule 47 (Creation of committees)

The PRESIDENT proposed that the word "[four]" should be replaced by the word "three".

It was so decided.

Rule 47, as amended, was adopted.

Rule 48 (Representation on Main Committees)

Mr. OSANYA-NYYN'OQUE (Kenya), supported by Mr. QUARTEY (Ghana), proposed that, in paragraph 2, the word "President" and the square brackets enclosing the words "Executive Secretary" should be deleted. The question of procedure involved was more a matter for the Executive Secretary than for the President.

The amendment was adopted.

Rule 48, as amended, was adopted.

Rules 49 and 50

Rules 49 and 50 were adopted.

Rule 51 (Officers)

Mr. SYLVIG (Norway), supported by Mr. STANDEM (United Kingdom), proposed, in order to facilitate the work of the committees, the addition at the end of the text of rule 51 of a new sentence reading as follows: "However, the Chairmen of each of the Main Committees shall be elected by the Conference".

The amendment was adopted.

Rule 51, as amended, was adopted.

Rule 52 (Quorum)

Rule 52 was adopted.

Rule 53 (Officers, conduct of business and voting in committees)

Mr. REIH (United States of America) said that the committees and sub-committees should have some latitude to relax for their proceedings the rather stringent provisions of the rules of procedure. He therefore proposed that the second part of the first sentence should be replaced by the following: "except as such rules shall be modified by Main Committees or sub-committees".

Mr. QUARTEY (Ghana) said he felt that, on the contrary, the committees should not be allowed to amend the provisions of the rules of procedure without reference to the Conference in plenary.

Mr. PAREJA (Argentina) said that he shared that view. He feared, moreover, that the United States representative's proposal might cause procedural difficulties, since it did not specify the manner in which committees would be allowed to amend the rules of procedure.

Mr. LOBO (Brazil) said that he appreciated the desire of the United States representative to introduce more flexibility into the proceedings of the committees. At the same time, he also understood the objections raised by the representatives of Ghana and Argentina and felt that the use of the expression "mutatis mutandis" in the first part of the first sentence met to some extent the concern of the United States representative.

Mr. REIN (United States of America) withdrew his proposal.

Rule 53 was adopted.

Chapter VIII (Languages and records)

Rule 54 (Official and working languages)

Mr. MASSON (Executive Secretary of the Conference) suggested the deletion of Chinese from the list of official languages of the Conference, since China had announced that it would not be participating in the Conference. If the rule were retained in its present form, the Secretariat would, if any delegation decided to speak in Chinese, be obliged to have interpreters brought from Headquarters in New York and that might prove difficult at a time when the General Assembly was in session.

Mr. QUARTEY (Ghana), Mr. PAREJA (Argentina) and Mr. MIRZ (Pakistan) said that, as a matter of principle, they preferred that Chinese should continue to appear in the list of official languages of the Conference and hence that rule 54 should not be amended.

After an exchange of views, in which Mr. GROSSIN (France), Mr. OGANYA-MYYNLOQUE (Kenya), Mr. LOBO (Brazil) and Mr. STANDEN (United Kingdom) took part, the PRESIDENT proposed that the Conference should adopt rule 54 without amendment, on the understanding that the Secretariat would not provide interpreters for the Chinese interpretation booth.

It was so decided.

Rule 54 was adopted.

Rules 55-58

Rules 55-58 were adopted.

Chapter IX (Public and private meetings)

Rule 59 (Plenary meetings and meetings of committees)

Mr. PÖLÖVÁRI (Hungary), supported by Mr. OGANYA-NYENEQUE (Kenya) and Mr. LAJCIAK (Czechoslovakia), proposed that the square brackets enclosing the words "and the meetings of Main Committees" in the text of rule 59 should be deleted.

The amendment was adopted.

Rule 59, as amended, was adopted.

Rules 60 and 61

Rules 60 and 61 were adopted.

Chapter X (Representatives of specialized agencies, the International Atomic Energy Agency and observers for intergovernmental and non-governmental organizations)

Article 62

Article 62 was adopted.

The draft rules of procedure of the Conference (E/CONF.59/18 and Corr.1), as amended, were adopted unanimously.

ADOPTION OF THE AGENDA (item 5 of the provisional agenda)(E/CONF.59/20/Add.2/Corr.1, E/CONF.59/34)

Mr. OGANYA-NYENEQUE (Kenya) suggested that the Conference should adopt without amendment the provisional agenda adopted by the Economic and Social Council in paragraph 2 of its resolution 1775 (XLII) (see E/CONF.59/20/Add.2/Corr.1).

Mr. LYRO (Brazil) said that he agreed with the representative of Kenya. However, he wondered what was to become of the proposals for amendments to the provisional agenda mentioned, under item 5 (Adoption of the agenda) in paragraph 7 of the note by the Secretariat entitled "Annotations to the provisional agenda of the Conference" (E/CONF.59/34). His delegation did not consider it necessary that the item entitled "Customs formalities for the 'nationalization' of goods" (ibid., para. 7 (b)) should constitute a new agenda item. It could very well be examined, for example, by the Second Main Committee with the draft Customs Convention on Containers. The item entitled "Terminology" proposed by the Secretariat (ibid., para. 7 (d)) could be examined by a drafting committee, if the Conference decided to establish one.

Mr. DUQUESNE (France) suggested that the question of documentation (ibid., para. 7 (c)) should be examined under agenda item 10 (Harmonization of provisions concerning elements common to the safety and Customs conventions).

Mr. TSARAPOV (Union of Soviet Socialist Republics) said that his Government and that of the Byelorussian Soviet Socialist Republic had proposed an amendment to item 11 of the provisional agenda for the Conference (see E/CONF.59/20/Add.1, paras. 5 and 9, and E/CONF.59/31/Add.1, paras. 5 and 9), in reply to a note verbale

of the Secretary-General of the United Nations and the Secretary-General of IMCO dated 12 June 1972. The question had been since examined by the Committee on Shipping of the Trade and Development Board which had proposed at its second special session, held from 3 to 7 July 1972, 2/ a compromise solution that the Economic and Social Council had taken into account in preparing the provisional agenda for the Conference adopted in Council resolution 1725 (LIII). Accordingly, the USSR delegation would not press that amendment.

Mr. GOULETSKY (Byelorussian Soviet Socialist Republic) said that his delegation associated itself with the statement made by the USSR delegation.

The PRESIDENT proposed that the Conference should adopt as its agenda the text which appeared in paragraph 2 of Economic and Social Council resolution 1725 (LIII) (E/CONF.59/20/Add.2/Corr.1).

The agenda was adopted.

ORGANIZATION OF THE WORK OF THE CONFERENCE (agenda item 4) (E/CONF.59/26 and Corr.1, E/CONF.59/30/Add.1, para. 10; E/CONF.59/31/Add.1, para. 10)

Mr. MASSON (Executive Secretary of the Conference) read out a note by the Secretary-General in which the latter expressed his preoccupation with the increasingly adverse effects of the critical financial situation of the United Nations on the reputation of the Organization, as well as on the efficiency of its work. The continuing financial difficulties made budgetary restraint unavoidable.

The budget appropriations for 1972 must be administered in such a manner as to achieve a final unexpended balance in the amount of $4 million, the approximate equivalent of the anticipated shortfall in the payment of assessed contributions. For 1973, on the assumption that no real progress would be made in the immediate future towards the elimination of the deficit, the Secretary-General had considered it essential that the Secretariat should show the maximum restraint and stringency in the preparation of budget estimates. In particular, even where circumstances justified the strengthening of particular offices and departments in 1973, he would not seek the necessary appropriations until the present difficulties had been resolved.

To attain those objectives, the Secretary-General had called for the co-operation of all members of the Secretariat, and he had received a positive response. However, the full support of all the United Nations bodies which originated new programmes and activities must also be enlisted. A policy of financial restraint did not necessarily preclude new programmes and activities. The aim should rather be to undertake them using existing staff which would become

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2/ See the report of the Committee on Shipping on its second special session (Official Records of the Trade and Development Board, Twelfth Session, Supplement No.3 (TD/B/402-TD/B/C.4/100)) annex I, resolution 20 (S-II) entitled "Draft Convention on international combined transport of goods".

available either through the completion of earlier tasks or through the assignment of a lower priority to certain continuing activities. The extent to which the members of the Conference would wish to associate themselves with the Secretary-General's preoccupations and intentions was, of course, a matter for them to decide, but the Secretary-General trusted that they would wish to assist him in attaining objectives which, in view of the circumstances, he believed were in the best interest of the Organization.

To assist the Secretary-General in his efforts, he considered that the Conference should make it a strict rule not to exceed its budget. It would succeed in complying with that rule if it adhered scrupulously to its time-table and did not hold any evening or week-end meetings. In that connexion, he stated that not more than three meetings could be held simultaneously.

The PRESIDENT invited participants to comment on the organization of work of the Conference and drew their attention to the note by the Secretariat on that question (E/CONF.59/26 and Corr.1).

Mr. SELVIG (Norway), referring to the time-table suggested by the Secretariat in its note and noting the delay which had already occurred, requested that the First and Second Main Committees should begin their work immediately. He proposed that the Conference should immediately elect the Chairmen of those Committees, which should meet not later than the following afternoon, even if the general debate provided for in the agenda and in the proposed time-table had not concluded.

Mr. STANDEN (United Kingdom) supported the Norwegian representative's proposal. In order to speed up the work, delegations which had prepared statements should forego making them.

The PRESIDENT pointed out that item 7 of the agenda which had been adopted provided for a general debate. He asked whether the United Kingdom representative wished to reopen the debate in order to amend the agenda.

Mr. STANDEN (United Kingdom) said that he had not requested the reopening of the discussion on the agenda. The Conference might simply decide not to hold any general debate, or to regard the general debate as having been held.

Mr. QUARTEY (Ghana) supported that view.

Mr. OSAMYA-NYYNDUU (Kenya) agreed that the Conference should decide that there would be no general debate, on the understanding that if delegations felt it necessary to make a statement on a particular item they could do so in the competent Committee or elsewhere, as decided by the Conference.

Mr. OKAWA (Japan) said that he supported the Norwegian proposal. If there was to be a general debate, the length of statements should be limited. But, if the United Kingdom proposal was approved, the Japanese delegation would give it its full support.

Mr. SELVIG (Norway) withdrew his proposal and said that he supported the proposal of the United Kingdom representative.

Mr. LOBO (Brazil) said that he, too, favoured the elimination of the general debate. Nevertheless, it was possible that some delegations had received instructions from their Governments to make a statement. It might therefore be preferable to hold a general debate and to limit statements to 10 minutes each. However, the Conference might very well consider it necessary to have a general debate at a later stage.

Mr. REIH (United States of America) said that, in his view, the best suggestion was that made by the Brazilian representative.

The United States delegation supported the allocation of agenda items proposed by the Secretariat (E/CONF.59/26 and Corr.1, para.3) and the establishment of a drafting committee and a credentials committee (E/CONF.59/26, para.5).

Mr. GAINARLIEV (Bulgaria) proposed that, in order to speed up the work of the Conference, delegations which had received instructions from their Governments to make a statement should be allowed to submit such statements to the Secretariat in writing, on the understanding that they would be reflected in the summary records.

Mr. OSANYA-NYONYOZI (Kenya) said that the solution proposed by the Bulgarian representative had been adopted on other occasions. The written statements submitted could be annexed to the report.

Mr. MASSAH (Executive Secretary of the Conference) pointed out that the costs of translating written statements into all the working languages would be too high. It ought, however, to be possible to circulate summaries.

After an exchange of views, in which the PRESIDENT, Mr. POLOVÁNI (Hungary) and Mr. STANDEN (United Kingdom) took part, the PRESIDENT proposed that the Conference should complete the organization of its work at the present meeting and decide to devote the morning of 15 November to a general debate in which the length of statements would be limited, on the understanding that the Main Committees would begin their work in the afternoon of the same day.

It was so decided.

Mr. TSHAKOV (Union of Soviet Socialist Republics), referring to the allocation of agenda items among the Main Committees, requested that the question of standardization (agenda item 12) should be considered by the First, and not the Third Main Committee. That would be more logical, since the First Main Committee would also be studying the question of the action to be taken with regard to decisions on standardization.

Mr. REIH (United States of America) read out the wording of agenda item 12 on standardization questions and said that it was preferable for the Third Main Committee to consider the question of standardization, on which policy decisions would have to be taken.

If the allocation proposed by the Secretariat was changed, the work programme of the Committees concerned would be thrown out of balance. For that reason, his delegation considered that the programme proposed by the Secretariat should be adopted without change.

Mr. van de WETERING (Netherlands) said that he would be inclined to support the proposal of the USSR representative, since the question of standardization would involve technical discussions.

Mr. CROUZEL (France) said that he shared that view.

Mr. QUARTEY (Ghana) said that, since the question of standardization involved both technical and policy issues, it should be considered by both the First and the Third Main Committees, which could then hold a joint meeting to coordinate their views.

Mr. WIEWIORSKI (Poland) said that he agreed with the representative of the USSR.

The CHAIRMAN suggested that interested delegations should hold consultations concerning the allocation of agenda item 11 and inform the Conference of the results of those consultations at the next meeting.

It was so decided.

The meeting rose at 5.10 p.m.

SUMMARY RECORD OF THE FOURTH PLENARY MEETING

held on Wednesday, 15 November 1972, at 10 a.m.

President: Mr. [illegible] Union of Soviet Socialist Republics

ORGANIZATION OF THE WORK OF THE CONFERENCE (agenda item 4)(continued) (E/CONF.59/6 and Corr.1, E/CONF.59/31/Add.1, para.10; E/CONF.59/31/Add.1, para.10)

The PRESIDENT invited delegations to report on the results of their consultations on the question of the most appropriate forum for the consideration of agenda item 12 (Standardization questions).

Mr. [illegible] (Brazil) said that, in his delegation's opinion, standardization questions should be discussed in the Third Main Committee, the only committee in which the interests of the developing countries would be fully reflected. The use of containers was passing through a dynamic phase and changes were constantly occurring, particularly in the developed countries. The developing countries, on the other hand, used containers only to a very limited extent. Since the standards adopted would depend on technical developments, the Conference should hold as wide a discussion as possible on the question, a course which could be followed only in the Third Main Committee, in which more time would be available than in the other committees.

Mr. [illegible] (Canada) agreed that agenda item 12 should be allocated to the Third Main Committee, in order to reduce the workload of the other Main Committees.

Mr. [illegible] (Japan) said that, although his delegation was sympathetic to the idea of allocating agenda item 12 to the First Main Committee, it agreed that the work of the Conference would be expedited if the item was allocated to the Third Main Committee.

Mr. [illegible] (Union of Soviet Socialist Republics) said that, as a result of the consultations which his delegation had held with the United States delegation, it was able to propose the following compromise solution. In view of the heavy agenda of the Conference, agenda item 12 should be considered in the Third Main Committee on the understanding that the technical aspects of the item, on the one hand, and the organizational and policy aspects, on the other, would be discussed at separate meetings of that Committee. Technical experts would then be able to attend meetings on questions which concerned them.

Mr. [illegible] (United States of America) agreed to the procedure outlined by the Brazilian representative. He also agreed with the USSR representative that certain aspects of standardization would require the participation of technical experts. It would therefore be advisable for the Chairman of the Third Main Committee to give adequate notice of the Committee's schedule of work, so that Governments could ensure that the experts concerned were available when needed.

Mr. QUARTEY (Ghana) and Mr. LOBO (Brazil) supported the procedure proposed by the USSR representative, on the understanding that the Third Main Committee would consider the technical and policy aspects of standardization successively and that it would itself decide whether to establish subordinate bodies to consider those questions.

The PRESIDENT said that, if there was no objection, he would take it that the Conference agreed to follow the procedure proposed by the USSR representative, as clarified by the representatives of Ghana and Brazil.

It was so decided.

Mr. MASSON (Executive Secretary of the Conference) suggested that work on agenda item 10 (Harmonization of provisions concerning elements common to the safety and Customs conventions) might be expedited if the Chairmen of the First and Second Main Committees appointed at an early date a small group of members of each Committee to begin informal consultations on harmonization questions.

Mr. STANDEN (United Kingdom) supported the procedure suggested by the Executive Secretary.

The procedure suggested by the Executive Secretary with regard to agenda item 10 was adopted.

ELECTION OF OTHER OFFICERS (agenda item 5)

The PRESIDENT invited the Conference to decide whether the Chairmen of the Main Committees and the Vice-Presidents of the Conference should be elected by secret or open ballot.

Mr. OSANYA-NYUNGUL (Kenya) said it would appear from the informal consultations on the question that there was virtually unanimous agreement on the names of the Chairmen and Vice-Presidents. Consequently, there would probably be no need for a vote of any kind.

Mr. STANDEN (United Kingdom) said that, if a candidate was unopposed, obviously no vote would be needed. He therefore proposed that the Conference should decide whether the ballot was to be open or secret when the eventuality of two candidates being nominated for the same office arose.

The proposal of the United Kingdom representative was adopted.

Mr. SELVIG (Norway) nominated Mr. Bishop (United States of America) for the office of Chairman of the First Main Committee.

Mr. LOBO (Brazil) seconded the nomination.

Mr. BALASOIU (Romania), Mr. USHALOV (Union of Soviet Socialist Republics) and Mr. PONTI (Italy) supported the nomination.

Mr. LAVIGNE (Cuba) said that, although his delegation did not wish to nominate another candidate for the office of Chairman of the First Main Committee, it wished to express its opposition to the candidature of the United States representative.

Mr. Bishop (United States of America) was elected Chairman of the First Main Committee.

Mr. SELVIG (Norway) nominated Mr. Duquesne (France) for the office of Chairman of the Second Main Committee.

Mr. LOBO (Brazil) seconded the nomination.

Mr. BALASOIU (Romania), Mr. USHAKOV (Union of Soviet Socialist Republics) and Mr. PONTI (Italy) supported the nomination.

Mr. Duquesne (France) was elected Chairman of the Second Main Committee.

Mr. LOBO (Brazil), speaking on behalf of all the developing countries attending the Conference, nominated Mr. Nair (India) for the office of Chairman of the Third Main Committee.

Mr. QUARTEY (Ghana) seconded the nomination.

Mr. BALASOIU (Romania), Mr. USHAKOV (Union of Soviet Socialist Republics) and Mr. PONTI (Italy) supported the nomination.

Mr. Nair (India) was elected Chairman of the Third Main Committee.

The PRESIDENT, noting that the Conference had decided that there should be 25 Vice-Presidents, invited nominations for that office.

Mr. LOBO (Brazil) nominated for the office of Vice-President of the Conference Mr. Sapou Kapanvule Malela (Zaire), Mr. Gharbo (Egypt), Mr. Tchangoun (Cameroon), Mr. Quartey (Ghana), Mr. M'buli (United Republic of Tanzania), Mr. Longe (Nigeria), Mr. Osanya-Nyyneque (Kenya), Mr. Lakonnen (Ethiopia), Mr. Atmadinata (Indonesia), Mr. Toncic (Yugoslavia), Mr. Pathmarajah (Sri Lanka), Mr.Al-Shelail (Saudi Arabia), Mrs. Zaefferer de Coyeneche (Argentina), Mr. Lobo (Brazil), Mr. Copene (Chile), Mr. Castillo Májera (Mexico) and Mr. Espino (Panama).

Mr. FÖLDVÁRI (Hungary) nominated Mr. Zakhariev (Bulgaria)

Mr. YASHNIK (Ukrainian Soviet Socialist Republic) nominated Mr. Balasoiu (Romania).

Mr. WISNIEWSKI (Poland) nominated Mr. Lajciak (Czechoslovakia).

Mr. SWANDEN (United Kingdom) nominated Mr. Antequera (Spain), Mr. Okawa (Japan), Mr. Selvig (Norway), Mr. Williams (Australia) and Mr. Woelker (Federal Republi of Germany).

Mr. LAVIGNE (Cuba) said that his delegation wished to place on record its opposition to the candidature of the representatives of Argentina and Brazil for the office of Vice-President of the Conference.

Mr. PAREJA (Argentina) expressed regret at the position taken by the Cuban representative. It would certainly not hasten the day when Cuba could be reincorporated in the Latin American family of nations.

Mr. LAVIGNE (Cuba) expressed surprise at the observation made by the Argentine representative, who had cast doubt on a practice customary in conferences of the kind now in progress. When there was an election of officers, delegations were entitled to support or oppose candidates. There was no legal justification for the Argentine representative's criticism of the Cuban position.

In connexion with the Argentine representative's reference to the American family of nations, which he took to mean the Organization of American States, he could not but refer that representative to the repeated statements by the Cuban Government to the effect that Cuba had no interest whatsoever in returning to that Organization.

Mrs. Zaefferer de Goyeneche (Argentina), Mr. Williams (Australia), Mr. Lobo (Brazil), Mr. Zakhariev (Bulgaria), Mr. Tchamoum (Cameroon), Mr. Copano (Chile), Mr. Lajciak (Czechoslovakia), Mr. Charbo (Egypt), Mr. Hakonnen (Ethiopia), Mr. Moeller (Germany, Federal Republic of), Mr. Quartey (Ghana), Mr. Atmadinata (Indonesia), Mr. Okawa (Japan), Mr. Osanya-Mwyneque (Kenya), Mr. Castillo Nájera (Mexico), Mr. Longe (Nigeria), Mr. Selvig (Norway), Mr. Espino (Panama), Mr. Solacolu (Romania), Mr. Al-Shelail (Saudi Arabia), Mr. Pathmarajah (Sri Lanka), Mr. Antequera (Syria), Mr. M'Buli (United Republic of Tanzania), Mr. Voncic (Yugoslavia) and Mr. Lokou Kapanvole Kalela (Zaire) were elected to the office of Vice-President of the Conference.

APPOINTMENT OF THE CREDENTIALS COMMITTEE (agenda item 6)

The PRESIDENT suggested that the representatives of Belgium, Costa Rica, Hungary, India, Japan, Mexico, Nigeria, United Republic of Tanzania and the United States of America should be appointed members of the Credentials Committee, in accordance with rule 4 of the rules of procedure of the Conference.

It was so agreed.

GENERAL DEBATE (agenda item 7)

Mr. POLVARI (Hungary) said the Conference had the task of preparing important international agreements. Those instruments, however, could only attain their objectives if they were universal in character. His delegation therefore deplored the fact that certain countries had been deprived of the opportunity to participate in the work of the Conference. It also hoped that the instruments that would emerge from the Conference would be open for accession by all States that wished to accede.

Mr. LAVIGNE (Cuba) said that the Conference would be engaged in preparing legal instruments intended to render international container traffic safer and smoother; it would also discuss various alternative suggestions to facilitate the future expansion of cargo unitization. Both objectives, which were closely linked with the interests of international trade, had to be set in the context of the Second United Nations Development Decade, since none of the issues before the

Conference could be divorced from the international community's commitment to solve the problem of under-development. He felt confident that the Conference would be able to make a modest but significant contribution to the attainment of those objectives.

That being so, he noted with deep regret that no effort had been made to secure the participation in the work of the Conference of the German Democratic Republic, the Democratic People's Republic of Korea, the Democratic Republic of Viet-Nam and the Kingdom of Cambodia. The absence of those States would detract from the effectiveness of the Conference and from its claim to universality.

As far as safety questions were concerned, his delegation believed that the Conference should pay special attention not merely to the protection of cargo against damage and theft but above all to measures to protect the men who handled the containers.

With regard to standardization, his delegation would co-operate whole-heartedly in the search for solutions which were in the international interest, leaving resolutely aside the selfish and narrow nationalistic approach.

All were aware of the protracted debate which had taken place in connexion with the draft convention on international combined transport of goods (draft TCM convention). The fact could not be ignored that some wished to use the present Conference to shelve what was left of that draft for a long period, while others wished to use it as an opportunity for reviving the project. In his delegation's view, the main issue facing the Conference went far beyond the question of whether it would be possible to adopt the TCM convention. What was at stake was the ability of the Conference to make universally accessible, speedily and on an equitable basis, the technological progress achieved in a key sector of the world economy. Consideration of that problem had hitherto been confused by the uncertainty and mistrust that had prevailed in relations between a number of developed and developing countries. That situation was understandable, since the cargo revolution was being approached from positions separated by the deep and widening gulf created by disparities in technological development.

It was unrealistic to expect developing countries to accept technological advances per se. Even where those advances appeared certain to yield advantages in the longer or shorter term, there could be no doubt that the immediate prospects were doubtful as far as those countries were concerned. Nevertheless, a positive approach had to be adopted: cargo unitization constituted a technological achievement and should become universally accessible, since its promotion was consistent with the basic interests of all peoples. The task at hand was to devise formulas that would make its application practicable and would ensure that its benefits were equitably apportioned from the outset.

The developing countries would have to overcome many obstacles and difficulties before they could successfully assimilate the new transport technology. The burden of the efforts required for that purpose should not, however, rest on those countries alone. The developed countries were under a duty to participate in that process by extending substantial technical and financial assistance for the preparation of the necessary studies. The developing countries, for their part, would have to accept cargo unitization as an indispensable phase in the modernization of their economies and take the appropriate political decisions to mobilize the necessary resources, re-allocate manpower that might become redundant and ensure that the substantial

investments involved benefited society as a whole and not certain private interests. Such measures would call for the modification or replacement of obsolete structures or those resistant to change. Indeed, under modern conditions, the only sound road to development for the developing countries was through radical and revolutionary structural changes. Developments in his own country since January 1959 provided a contemporary example in that respect. Cargo unitization had been introduced, and was being developed, in Cuba without conflict as a result of the social conditions created by the revolutionary process.

The Cuban experience was of interest in another respect. The introduction of cargo unitization in his country, where transport facilities were rapidly expanding, had been, and would continue to be, greatly facilitated by the relations of technical and economic co-operation established with the socialist countries and in particular with the USSR. That experience - which was by no means isolated - demonstrated that there were developed countries with which it was possible to have relations based on mutual trust and on mutual benefit.

The present Conference was one more expression of the desire of the peoples of the world to build a peaceful future for themselves. For that reason, he was sure that most participants would share his sense of solidarity with the people of Viet-Nam in their struggle and join with the millions who demanded that the United States Government should immediately bring to an end the most shameful war in modern history.

Mr. USHAKOV (Union of Soviet Socialist Republics) said that the policy of the Soviet Union was to achieve peaceful coexistence between countries with different social and economic systems and to promote the development of mutually advantageous trade relations with all countries; it was therefore in favour of containerization which would promote trade growth. The Soviet Union's foreign trade turnover had grown rapidly in recent years; in 1970, it had risen by almost 12 per cent over 1969 to a total value of 22.1 million roubles. Further rapid economic growth was provided for in the five-year development plan for the period 1971-1975, under which national income would increase by 38.6 per cent and industrial production by 47 per cent; foreign trade turnover with CMEA countries alone would amount to 77,000 million roubles during the five-year period. There would also be increased possibilities for containerization, and the USSR was taking an active part in the development of a single transport system in CMEA countries under the Comprehensive Programme for the Further Expansion and Improvement of Co-operation and the Development of Socialist Economic Integration of CMEA Member Countries.

The efficiency of containerization had been confirmed by the Soviet Union's extensive experience in domestic container transport. In 1971, some 33 million tons had been transported by container over an average distance of 1,600 kilometres within the USSR, which now possessed more than 1,500 transloading stations. The volume of container traffic would almost double during the current five-year plan, the main mode of transport being by rail. Preparatory work for the large-scale transportation through the territory of the USSR of containers in transit between European and Near and Far Eastern countries would be completed in 1973.

International container transport could only be effectively developed on the basis of standards which were binding for all countries and covered all container and container-related specifications, pallets, tare weights, packing and transport and handling equipment specifications. Despite the useful work done by ISO, however, the

problem of standardization had not yet been solved. The ISO recommendations for container specifications, which had been adopted on the basis of conditions in the United States of America, were not correlated to the package dimensions, tare weights, packaging and handling equipment used in many European countries. Work on container standardization must therefore be continued and, in particular, recommendations on correlating the parameters of containers used in international transport with tare weight, packing and pallet standards should be worked out. The Conference should recommend ISO to prepare recommendations on standards for large containers used in intra-continental traffic.

The procedure for amending the draft International Convention for Safe Containers (E/CONF.59/23, part II) should be rather simple, since future experience was likely to necessitate the clarification of a number of its provisions. The draft Customs Convention on Containers (E/CONF.59/22, part II) would have an important role to play in the organization of international container traffic, but it should not infringe the sovereign right of States, for example, by precluding the checking of the contents of a container, either if a discrepancy was suspected between the goods carried and those listed in the accompanying documents or for sample checking.

Although it had not yet been possible to prepare a convention on combined transport acceptable to all countries, it would be desirable for combined transport to be governed by international regulations rather than to be affected by the requirements of private transport enterprises dictating their own conditions.

In his delegation's view, the ISO recommendation on container coding was open to question. Since the use of an alphabetical-numerical code would raise considerable difficulties for countries which did not use the Latin alphabet, the Conference might wish to endorse the use of purely numerical codes.

The establishment of a genuinely universal container system implied the participation of all countries concerned. It was therefore regrettable that a country such as the German Democratic Republic, which had a highly developed container transport network, had not been invited to take part in the work of the Conference, the Soviet Union considered that any convention to be prepared by the Conference would only serve its purpose if it was open to all interested countries which respected the principles of the United Nations.

Mr. ZAKHARIEV (Bulgaria) said that it was hardly necessary to stress the importance of the matters before the Conference. The use of containers represented a major technological advance and his country attached much importance to the development of their use in both internal and international transport.

Like many other technological advances, the use of containers raised economic, legal, social and international problems. Those problems could not be solved without the active participation of all interested countries. His delegation therefore welcomed the fact that the question of international container traffic was being considered by a United Nations conference but deeply regretted that not all interested countries had been given an opportunity to participate. He had particularly in mind the German Democratic Republic, a highly developed socialist country which had much experience of advanced forms of transport. The German Democratic Republic would have been fully prepared to participate in the Conference

and its participation would have facilitated the solution of the problems being examined. Moreover, that participation would have been in keeping with the present welcome trend towards a lessening of tension in Europe.

He hoped that the Conference would achieve practical results and urged that the instruments that emerged from its work should be open for accession by all interested countries, including those which had not been invited to participate in the Conference.

Mr. WISNIEWSKI (Poland) said that his country, which was connected by sea routes with all parts of the world and which was situated on important transit routes, had a major interest in the container transport system, an interest which it had shown by participating in the work on the relevant draft international conventions.

Polish shipyards were building container and semi-container ships. Container port and rail terminals were also being constructed and, simultaneously, modern means of road and rail transport and universal and freezer-type containers were being brought into use.

Since the container was a means of transport which crossed the borders of many countries, his delegation considered that the German Democratic Republic should take part in the work of the Conference and participate in the drafting of conventions on international container transport.

With regard to the problem of human safety, his delegation believed that, since containers were mass-produced and were used on a large scale, a convention dealing with the safety of container transport should be concluded as soon as possible.

The progress of the container system had made it necessary to revise the Customs Convention on Containers, 3/ signed at Geneva on 18 May 1956. A uniform regulation of Customs formalities was particularly important in the case of door-to-door deliveries where containers, sealed by the sender, went unopened through the Customs of several countries.

Poland was thus interested in participating in conventions on both safety and Customs. As far as the draft TIR convention was concerned, his delegation considered that work on it should be completed as soon as possible; the convention should be based on principles that were economically sound and acceptable to all interested countries.

Lastly, his delegation considered it advisable that the appropriate international organizations should co-operate with ISO.

Mr. Mr. ROHN (United States of America) said it was regrettable that political questions should have been raised at the present Conference, which was essentially technical in character. He hoped that there would be no more attempts to introduce political issues into its proceedings.

3/ United Nations, Treaty Series, vol.338 (1959), No.4834, p.103.

Mr. CROSSIN (France) drew attention to the fact that the expression "Contracting States" was used instead of "Contracting Parties" in the two draft conventions before the Conference. That terminological change raised certain problems for his delegation. In the first place, it believed that the expression "Contracting States" was too formal for use in technical conventions such as those that would emerge from the present Conference; the expression "Contracting Parties" was much more suited to that type of agreement. In the second place, under French law, the type of authority required to sign international instruments varied according to the terminology used. If the expression "Contracting States" was used, he would require full powers signed by the President of the French Republic. Since it would take some time to obtain such powers, he was anxious that the terminological point he had raised should be clarified.

Mr. MAIA (India) said that, as a maritime country with an extensive sea-borne trade and a sizeable merchant navy, India had watched with considerable interest the growth of containerization on a number of international trade routes.

Containerization had made slow progress in developing countries like India because of the heavy capital outlay involved in the acquisition of container ships, the provision of port facilities and the building of the necessary infrastructure. Preliminary investigations had, however, been recently carried out in India into the feasibility and desirability of introducing containerization. It was also planned to provide container facilities at two or three Indian ports.

Since shipping was an international industry and since the container system extended beyond sea transport, the progress of that system in some developed countries was bound to have an impact on developing countries like India. His delegation therefore appreciated the international efforts being made to secure uniformity of standards and procedures in respect of such matters as documentation, Customs formalities and safety connected with the transport of containers. His delegation hoped that, in dealing with those matters, the Conference would give due consideration to the special conditions obtaining in developing countries and to the need to protect the interests of those countries, which had little experience of container transport.

Mr. LASSOK (Executive Secretary of the Conference), referring to the point raised by the representative of France, said that the term "Contracting States" had been introduced into the two draft conventions because it was the term used in the 1969 Vienna Convention on the Law of Treaties, 4/ which was intended to unify the rules governing the formulation of international agreements. The term "Contracting Parties" had previously been used in most ECE transport conventions. There would be no objection to using that term in the present instance as well, although it would mean a departure from the uniformity which the Vienna Convention was intended to achieve. The question of finding terminology which would allow for the requirements of the various national legislations could perhaps be considered at a joint meeting of Main Committees.

4/ See Official Records of the United Nations Conference on the Law of Treaties, First and second sessions, Documents of the Conference (United Nations publication, Sales No.: E.70.V.5), p.289.

Mr. STANDEN (United Kingdom) suggested that the matter should be referred to the Drafting Committee, whose membership would include legal experts.

Mr. CROSSIN (France) said that he had no objection to the matter being decided in the Drafting Committee. If, however, the term "Contracting States" was retained, he would need some 12 days to obtain the necessary full powers.

The PRESIDENT said that, if there were no further comments on that point he would take it that the Conference agreed that the question of terminology raised by the French representative should be referred to the Drafting Committee.

It was so decided.

Mr. ATMADJAJA (Indonesia) said that the purpose of the Conference was to deal with administrative, technical and legal problems - all of them of a practical nature - which had to be solved at the world level in order to avoid the adoption of conflicting solutions at regional and sub-regional levels.

The use of containers in international trade was not the only method of unitizing cargo and eliminating break-bulk handling. Other major methods at present in use included the pre-slinging of cargoes, palletization and the use of barge-carrying vessels. Cargo unitization with the use of containers had developed first in the domestic trade of the United States of America, but had spread rapidly to the international deep-sea trades. So far, it had mainly affected the trade between developed countries, where trade volumes were large and cargo handling costs at both ends of the route were high. In a number of instances, however, the economic results appeared to have been disappointing to shipowners.

A full-scale containerization programme, including container ships, container pools and port terminal and related facilities, would require heavy investments, which developing countries could not generally afford. Many developing countries were therefore only in the initial stages of containerization. For those countries, unitized cargo handling and transportation had the disadvantage of being capital-intensive. The introduction of labour-saving and capital-intensive forms of intermodal transport could give rise to economic and social problems in countries where manpower was plentiful and financial resources scarce. Large capital investments were needed to secure entry to unitized services; for instance, the cost of one new container vessel with containers was approximately equivalent to that of three new conventional ships. Decisions with regard to unitization in a particular trade were taken by the shipowners of developed countries on the basis of economic considerations. Developing countries might thus find themselves compelled to make investments in port facilities, and the future of their merchant fleets could be endangered, as a result of decisions taken by shipowners in other countries. Furthermore, the foreign trade of the developing countries was mostly in export commodities of raw materials which might not be technically or economically suitable for containerization.

Two elements in the present situation of uncertainty were of particular concern to the developing countries. The first was that they could not generally afford to waste their scarce development resources by investing in a form of capital equipment which might later prove to be uneconomic. The second was that unitization had developed in the context of liner conferences. While unitization

could lead to the breakdown of the present conference system, it might well result in the formation of super-conferences. Shipowners who had made wrong choices with regard to utilization would thus be able to raise freight rates to levels sufficient to make their choices profitable. For developing countries, which had to pay freight in foreign exchange, that prospect was alarming.

In conclusion, he stressed that containerization was being treated by the developed countries as a technical matter without consideration of its effect on the foreign trade and hence the balance of payments of the developing countries.

Mr. AZIZ (Pakistan) said that he would limit his statement to a few general remarks, since matters of detail would be dealt with in the committees.

Containerization was not the only method of unitizing cargo. Its most important feature was its capital-intensive character, which made it very unsatisfactory for the developing countries. Those countries had an abundant supply of labour and were already faced with an unemployment problem. Since the use of containers meant a reduction in employment, it was likely to make the problem even more serious.

In conclusion, he hoped that, in examining the technical and legal aspects of the questions before it, the Conference would have due regard to the special situation of the developing countries.

Mr. [illegible] (African Civil Aviation Commission), speaking at the invitation of the President, said that the objectives of his Organization, which had been established in 1969 and whose membership was open to all African States, included the establishment of national air transport practices and regular consultations between African civil aviation authorities and the promotion of the co-ordination, utilization and orderly development of African air transport systems. Among the matters considered by AFCAC was the question of air freight, which was being reviewed in the light of conclusions of the study on air freight and air mail in Africa, published in 1971 by ICAO./

It was significant that exports to Western Europe represented 64 per cent of Africa's total commodity exports, while its imports from that region constituted 56 per cent of the total. By contrast, trade with Africa constituted only 6.5 per cent of Europe's exports and 7.2 per cent of its imports. There was an air trade imbalance between Africa and Europe, the value of traffic from Europe to Africa greatly exceeding the value of traffic in the other direction, particularly in the case of manufactured goods. It was also noteworthy that in 1967, only about 0.02 per cent of all goods involved in African international trade had been carried by air, partly because much of that trade was made up of goods carried in bulk and therefore too heavy for air transport.

/ ICAO, Air freight and air mail, Africa, circular No.114-AT/26, 1971.

It was to be hoped that the Conference, in studying the characteristics and intermodal use of containers and Customs formalities related to container transport, would be able, on the basis of the experience acquired by operators as well as the experience resulting from the programmes established in 1965 by IATA, to establish a system broadly capable of meeting the needs of all users. In the meantime, however, the use of containers might perhaps be thought to require investments that were disproportionate to the expected benefits. In a recent article in the ICAO Bulletin, an airline official had expressed the view that over-intervening costs were what was wrong with today's container programme, although it offered numerous advantages to the shippers. He had further stated that costs were constantly rising and that a situation might arise in which the total cost of the extra capital required to expand container terminals, purchase and maintain handling equipment and containers, and maintain an efficient flow of containers would exceed the benefits and savings derived from the container programme.

The use of containers was related to the development of trade within Africa and between Africa and other continents, especially Europe. The annual growth rate of freight carried on all scheduled services from, to and within Africa between 1953 and 1966 had been 18 per cent, while 20.3 per cent of the ton-kilometres performed by scheduled airlines as a whole in 1968 had been of the "all-cargo" type. Although the main items before the Conference were concerned essentially with maritime navigation, the decisions to be taken, especially those concerning international combined transport, would necessarily affect the present air transport system, and his organization was therefore very much interested in the work of the Conference.

Mr. LIKHACHEV (Council for Mutual Economic Assistance), speaking at the invitation of the President, said that the current activities of CMEA were based on the Comprehensive Programme for the Further Extension and Improvement of Co-operation and the Development of Socialist Economic Integration of CMEA member Countries, which had been adopted in July 1971. The Programme included a number of measures relating to transport, including the establishment of a unified container transport system based on the use in all types of transport of heavy-duty, universal and specialized containers, specialized transportation facilities and high-efficiency cargo-handling equipment. Under multilateral agreements relating to the establishment of that system, container terminals were now being constructed and international container routes put into service in CMEA member countries. Containerization equipment was being produced in accordance with the recommendations on standardization adopted both by CMEA and ISO.

CMEA was convinced that the Conference would make a positive contribution to the establishment of uniform technological and legal provisions for international container traffic to promote faster and more efficient container transport and greater safety of container cargoes and personnel. In that connexion, it was to be hoped that any conventions prepared by the Conference would be open for accession by all countries concerned, including the German Democratic Republic, a sovereign State with a considerable volume of transit cargo traffic and a highly developed container transport system.

One of the main problems involved in the future development of container transport was that of standardization, and the Conference might have to consider the question of the harmonization of standardized container, pallet and packing specifications. In that connection, standardization provisions were included among the technological and operational requirements for containers and handling equipment

developing countries were extremely scarce, and the development of container transport inevitably had a lower priority than many other areas of economic development. Furthermore, the high expenditure on port installations and the domestic transport network was usually unprofitable for the country concerned but of great benefit to the shipowner.

The second problem facing developing countries was that of profitability, which depended on the volume of trade and the efficient operation of the system as a whole. Unfortunately, the primary commodities which constituted 80 per cent of the developing countries' exports were ill-suited to container transport, and the metal containers now being used were entirely inappropriate for their agricultural exports. The imbalance between the developing countries' exports and imports meant that a large number of containers had to be returned empty from their ports, and the storage and transport of those containers constituted an increasingly serious and costly problem. Containerization was the corollary of industrial development in the advanced countries, and it would be a mistake for developing countries to try to introduce the system on a massive scale, since that would mean that those countries were once again paying for the development of the better-endowed countries.

The third problem lay in the social and human sphere. Since containerization implied a considerable reduction in labour requirements, the countries of Africa, Latin America and Asia, in which labour was abundant and relatively cheap, would face a serious problem of unemployment. It was sometimes said that workers affected by containerization should be re-trained for other work, but the economies of developing countries were so fragile that they could not afford such restructuring.

On the basis of those considerations and the containerization experience gained by some developing countries, CAB wished to recommend that developing countries participating in the Conference should adopt the following common position. Firstly, the viability of container transport should be studied. Before adopting that system of transport, those countries should undertake economic studies and practical tests to determine its profitability. They should also emphasize the special responsibility borne by developed countries in general, and financial institutions in particular, towards the developing countries. Secondly, developing countries should avoid the need to establish installations for foreign-owned containers by adopting a joint position until they were able to accept the container transport system, and should discourage the adoption of a comprehensive container system in the short term. Thirdly, the experience of developing countries such as India and China should be closely studied. Fourthly, there should be a detailed consideration of social and economic problems, including the problem of unemployment. Fifthly, the developed countries should be prevented from monopolizing the ownership of containers to the detriment of the developing countries' national shipping lines. Sixthly, developing countries should endeavour, as far as possible, to manufacture containers for the transport of their products from local materials.

Mr. ODUROCY (Ghana), supported by Mr. [illegible] (Nigeria) and Mr. [illegible] (Brazil) proposed that the text of the statement made by the representative of CAB should be distributed as a Conference document.

SUMMARY RECORD OF THE FIFTH PLENARY MEETING

held on Wednesday, 22 November 1972, at 11 a.m.

President: Mr. ZUTOV Union of Soviet Socialist Republics

INTERIM REPORT OF THE CREDENTIALS COMMITTEE (E/CONF.59/36, E/CONF.59/BUR/L.1)

The PRESIDENT said that, at its first meeting, on 21 November 1972, the General Committee had considered a number of questions, including matters relating to credentials (E/CONF.59/BUR/L.1, para.2).

Mrs. OYEKUNLE (Nigeria), Chairman of the Credentials Committee, introducing its interim report (E/CONF.59/36), said that at that Committee's first meeting, on 17 November 1972, the Executive Secretary of the Conference had reported that 47 States (ibid., para.3 (a)) had submitted credentials issued by the head of State or Government or by the Minister for Foreign Affairs, in accordance with rule 3 of the rules of procedure of the Conference. In addition, provisional credentials in the form of cables had been received from the Ministries of Foreign Affairs of three other States (ibid., para.3 (b)).

Since a large number of States represented at the Conference had not yet submitted credentials for their delegations, the Credentials Committee had decided that a strong appeal should be made to those States to comply with rule 3 of the rules of procedure. It has also decided to request the Chairman of the three Main Committees to draw the attention of representatives to the need to submit credentials. Despite such action, only a few more credentials had been received. She understood that the General Committee had recommended that the time limit for the submission of credentials should be extended until 27 November 1972. She appealed to the delegations which had not yet submitted credentials to do so before that date.

Mr. MASSON (Executive Secretary of the Conference) drew attention to the General Committee's recommendation that, until 27 November 1972, provisional credentials in the form of telegrams from Foreign Ministries or letters from Permanent Missions should be considered adequate for participation in the work of the Conference; proper credentials would be required by that date. Telegrams signed by a head of State or Government or by a Minister for Foreign Affairs would be accepted as credentials (E/CONF.59/BUR/L.1, para.2); the same would apply to letters from permanent representatives stating explicitly that they had been issued on the instructions of the head of State or Government or by the Minister for Foreign Affairs.

Mr. LOBO (Brazil) said that delegations from distant countries might find it difficult to obtain credentials in the form of letters actually signed by the head of State or Government or by the Minister for Foreign Affairs. Their position would therefore be eased by the decision to accept as definitive credentials a telegram from the Head of State or Government or the Minister for Foreign Affairs or a letter of credentials signed by a permanent representative stating explicitly that he was authorized to issue it by the Minister for Foreign Affairs. As far as his own delegation was concerned, it held full powers signed by the Minister for Foreign Affairs of Brazil.

Mr. SAPOU KAPAMVULE KALELA (Zaire) said he had just been informed by his country's Permanent Mission that full powers for his delegation had been signed in the capital of Zaire and should reach Geneva within a few days.

Mr. PONTI (Italy) said that the letter from the Permanent Mission of his country, which had been submitted by his delegation on 15 November 1972, had been signed by the Permanent Representative of Italy on the direct instructions of the Minister for Foreign Affairs of Italy. His delegation would submit a revised letter which would make that position clear.

Mr. USHAKOV (Union of Soviet Socialist Republics), referring to the representation of the Republic of Korea, said that the representatives attending the Conference did not validly represent Korea.

Mr. PAEK (Republic of Korea) said that there was no room for political polemics in such a highly technical conference but that he was obliged to comment on the totally unacceptable remarks by the representative of Hungary which were mentioned in the interim report of the Credentials Committee (E/CONF.59/36, para.4).

The Republic of Korea was a member of IMCO of long standing. It was one of the leading developing countries in the field of maritime transport and it had been invited to attend the present Conference in accordance with the relevant resolutions of IMCO and of the Economic and Social Council of the United Nations.

He had heard with deep regret the remarks of the USSR delegation, which represented a country in which the Charter of the United Nations vested a special responsibility for promoting world peace and security. His delegation looked to the USSR to play a much more constructive part in bringing about more peaceful conditions in the part of the world to which his country belonged. As for the Hungarian delegation's attitude, he could not but feel that it was in the interests of small countries to respect each other's rights.

Mr. LAJCIAK (Czechoslovakia) said he wished to place on record his delegation's support of the views expressed by the USSR delegation.

Mr. BALASOIU (Romania) said that his delegation contested the validity of the full powers submitted by the delegations of South Viet-Nam and the Khmer Republic, because the only Governments which had the right to represent the peoples of South Viet-Nam and the Khmer Republic at the international level were the Provisional Revolutionary Government of South Viet-Nam and the Royal Government of National Unity of Cambodia, headed by Prince Norodom Sihanouk.

Mr. OR (Khmer Republic) said that his country had adopted a republic Constitution by a referendum held on 3 April 1972. By virtue of that Constitution, the first President had been elected in June 1972 and the two Houses of Parliament (National Assembly and Senate) in September 1972.

The Khmer Republic, as a member of the United Nations, had been invited to attend the present Conference. His delegation represented the legitimate Government of that Member State, unlike a so-called Government which existed only in name on the territory of a foreign country. There was no basis in international law for

disputing the representation of a country when the relevant credentials had been issued by the Government which was in full control of the national territory. He could not but express regret that the Romanian delegation should have chosen to raise a purely political question at the present Conference.

Mr. POLASCHEK (New Zealand) said that he could not accept the statements by the Romanian and certain other delegations. The representatives of the Republic of Korea and the Khmer Republic were fully accredited representatives of their respective Governments; the two States concerned were thus properly represented at the present Conference.

The PRESIDENT said that the observations made by the various representatives would appear in the record of the present meeting. If there were no further comments, he would take it that the Conference decided to endorse the General Committee's recommendations on the question of credentials (E/CONF.59/BUR/L.1, para.2).

The recommendations of the General Committee contained in paragraph 2 of document E/CONF.59/BUR/L.1 were approved.

APPOINTMENT OF A DRAFTING COMMITTEE (E/CONF.59/BUR/L.1)

Mr. MASSON (Executive Secretary of the Conference) drew attention to the list of countries proposed by the General Committee of the Conference at its first meeting for membership in the Drafting Committee (E/CONF.59/BUR/L.1, para.1). It was understood that the representative nominated by each country could be replaced whenever necessary by another member of the same delegation.

Mr. PATHMARAJAH (Sri Lanka) said it had been decided during informal consultations among the English-speaking countries members of the Asian group that the seat on the Drafting Committee proposed for Sri Lanka should be taken by Malaysia.

Mr. QUARTEY (Ghana) said that it had been similarly decided by the African group that the seat proposed for the Central African Republic should be taken by Cameroon.

The PRESIDENT said that, if he heard no objection, he would take it that the Conference had appointed a Drafting Committee composed of the following members: Mr. Moncrade (Argentina), Mr. Rouanet (Brazil), Mr. Naydenov (Bulgaria), Mr. N'Bah (Cameroon), Mr. Kassel (Egypt), Mr. Miquel (France), Mr. Bin Ruang (Malaysia), Mrs. Oyenkunle (Nigeria), Mr. Benito Prior (Spain), Mr. Tyorin (Union of Soviet Socialist Republics), Mr. Ingram (United Kingdom of Great Britain and Northern Ireland) and Mr. Willis (United States of America).

It was so decided.

ORGANIZATION OF THE WORK OF THE CONFERENCE (agenda item 4)(continued)(E/CONF.59/BUR/L.1)

Mr. MASSON (Executive Secretary of the Conference) drew attention to the recommendations made by the General Committee of the Conference at its first meeting concerning the rules of procedure of joint meetings of the Main Committees and the review of work in progress, including membership of the Main Committees (E/CONF.59/BUR/L.1, paras.3 and 4).

The PRESIDENT said that, if he heard no objection, he would take it that the Conference endorsed those recommendations.

The recommendations of the General Committee contained in paragraphs 3 and 4 of document E/CONF.59/BUR/L.1 were approved.

Mr. BUZINGO (Organization of African Unity), speaking at the invitation of the President, asked what progress had been made in implementing the decision taken by the Conference at its 4th plenary meeting to circulate the text of the statement which he had made on behalf of OAU at that meeting.

Mr. MASSON (Executive Secretary of the Conference) said that, under regulation 13.1 of the Financial Regulations of the United Nations, statements could only be reproduced in extenso if the body in which they had made required them as a basis for discussion and had approved their publication after having considered a statement of the financial implications. The question of the publication of the statement made by the representative of OAU had been raised at the meeting of the General Committee, which had agreed that the author of the statement could peruse the provisional summary record of the fourth meeting and request such modifications as might be required (E/CONF.59/BUR/L.1, para. 5).

Mr. NGONGO (Cameroon) said that the statement in question reflected the position of many African countries which had attended the preparatory meeting held at Addis Ababa with a view to establishing a joint position at the Conference. It was therefore a basic document which would enable the Conference to acquaint itself with and discuss that position.

Mr. SAPOU KAPANVULE KALELA (Zaire) associated himself with the statement made by the Cameronian representative.

Mr. QUARTEY (Ghana) said that a decision had been taken to circulate the text of the statement made by the OAU representative, since, at least in interpretation, it had been almost impossible to follow because of the speed with which it had been read.

The PRESIDENT pointed out that the representative of OAU, like other speakers, had been given 10 minutes in which to make his statement. The Conference had decided to circulate the French text of that statement, and to endeavour to distribute a translation in English before the end of the Conference. In view of the financial implications of that decision, however, it had been agreed in the

General Committee that the summary record of the statement, incorporating such modifications as its author might wish to make, would suffice. The Conference must therefore decide whether to accept the agreement reached in the General Committee or to uphold its earlier decision in plenary.

Mr. QUARTEY (Ghana) said it was doubtful whether the General Committee was entitled to reverse a decision already taken by the Conference at a plenary meeting.

Mr. [illegible] (Zaire) said that the statement in question should be circulated in extenso.

Mr. HASSAN (Executive Secretary of the Conference) said that the financial implications of circulating the text of the statement in extenso amounted to $417. That sum was available in the budget, but a formal decision by the Conference approving the circulation of the document was required.

Mr. OGANA-NYYNDOVE (Kenya) said that the agreement in the General Committee to which the President had referred had not been intended to override the Conference's decision, taken at its 5th plenary meeting. It had been clearly understood that the solution suggested in the Committee was a compromise and subject to acceptance by the representative of OAU. Since the latter had now found that solution unacceptable, it was necessary that the Conference's decision regarding the reproduction of the text of the statement in full be implemented. That, of course, implied the acceptance by the Conference of the financial implications just indicated by the Executive Secretary of the Conference, and it followed that no further decision by the Conference was called for as far as those implications were concerned.

Mr. CASTILLO MAJERA (Mexico) suggested that, since the translation and circulation of the statement made by the representative of OAU would appear to give rise to difficulties, he should be given the opportunity to repeat the statement at the present meeting.

Mr. BUZINGO (Organization of African Unity), speaking at the invitation of the President, said that the course suggested by the Mexican representative would avoid the issue. The African group of countries maintained that the statement which he had made should be regarded as a working document. He had submitted the text to the Secretariat a week before and had been told that it would be distributed immediately in French and at a later stage in English.

Mr. OGANA-NYYNDOVE (Kenya) said that it appeared from what the representative of OAU had just said that the General Committee had not been correctly apprised of the position of the African countries on the question and that the matter of the proper presentation of the statement in the summary record was not in question. The African delegations considered that the text of the OAU statement was so useful that it should be reproduced as a working document of the Conference. Various non-governmental organizations had submitted texts which had been reproduced as working documents and there seemed to be no reason why an important statement

such as that of the OAU representative should not receive the same treatment. The text must, furthermore, be made available to the Conference and in particular to the Main Committee concerned as soon as possible, so that it might be referred to in the course of the Committee's deliberations.

Mr. CROSSIN (France) said that, in the opinion of his delegation, the Secretariat should have the document in question circulated before the end of the Conference.

Mr. GRAY (United Kingdom) said that the Executive Secretary of the Conference had followed the correct procedure in stating the financial implications of the translation and distribution of the statement made by the representative of OAU. Since funds were available to meet the OAU representative's request, the Conference might wish to agree, exceptionally and on the understanding that it was not setting a precedent, to the translation and distribution of the statement.

The PRESIDENT said that, if there was no objection, he would take it that the Conference, having been informed of the financial implications of its decision, agreed that the text of the statement by the representative of OAU should be distributed as a working document in all languages.

It was so decided. 6/

Mr. GARCIA (United Kingdom) asked whether it would be permissible for representatives of the specialized agencies and observers to attend the joint meetings of the Main Committees.

The PRESIDENT replied that they would be authorized to attend those meetings.

The meeting rose at 12.20 p.m.

6/ The full text of the statement of the representative of OAU was subsequently circulated under the symbol E/CONF.59/L.2.

SUMMARY RECORD OF THE SIXTH PLENARY MEETING

held on Thursday, 30 November 1972, at 3.35 p.m.

President: Mr. ZOTOV Union of Soviet Socialist Republics

WELCOME TO THE DELEGATION OF THE GERMAN DEMOCRATIC REPUBLIC

The PRESIDENT welcomed the delegation of the German Democratic Republic. In view of that country's experience in container transport, he was convinced that its delegation would make a useful contribution to the work of the Conference.

Mr. WINKLER (German Democratic Republic) said it was the first time that a Government delegation from his country was participating in a United Nations conference on the same footing as every other State. That was an important step towards the achievement of the universality of the Organization and the application of the principle of the sovereign equality of all States. The participation of his country in the work of United Nations bodies, on an equal footing with other States, would be beneficial to all participants, since the Government of the German Democratic Republic had always attached the highest importance to multilateral co-operation and had done its utmost to find constructive solutions to international problems. It intended to persue the same course in future.

He wished to express his Government's sincere thanks to all those who had striven for the application of the principle of universality, and for the admission of the German Democratic Republic to participation, with equal rights, in the work of the United Nations.

In view of its position in the centre of Europe, the German Democratic Republic was interested in the elaboration and application of international regulations on container traffic, and in measures to increase safety in that field. It had always kept a close watch on international trends in the development of container traffic, and had followed them in practice. Its transport policy was based on the idea that a transport system could not be highly efficient unless container traffic was accorded its rightful place in all modes of transport.

In view of the development and evolution of goods transport, the German Democratic Republic was enlarging its container pool and establishing new trans-shipment capacities which would make it possible to handle about 400,000 loaded containers per year in domestic and international traffic. In developing container traffic, it was constantly aware of the increasing needs of transit traffic, both in the north-south direction and in the east-west direction - i.e. over to the "land bridge" between western Europe and Japan.

The German Democratic Republic was convinced that its co-operation in the work of the United Nations would give effective support to all endeavours to ensure that relations between States were organized on the basis of the principle of peaceful coexistence, and to all attempts to develop mutually advantageous co-operation.

REPORT OF THE CREDENTIALS COMMITTEE (E/CONF.59/40)

Mrs. OYEKUNLE (Nigeria), Chairman of the Credentials Committee, informed the Conference that, since the report of the Credentials Committee (E/CONF.59/40) had been circulated, credentials in good and due form had been submitted by Senegal and Haiti. Those two countries should, therefore, be added to the list in paragraph 3 (a), and the reference to Senegal should be deleted from paragraph 3 (b).

The Committee had also been informed, by a cable signed by the Minister of Finance of Cameroon, that the representative of that country had been appointed but was expecting at any moment to receive credentials in good and due form, signed by the Minister for Foreign Affairs.

Lastly, the representatives of Iran and the Republic of Viet-Nam had submitted credentials in good and due form to the Executive Secretary of the Conference.

The PRESIDENT, referring to the question of Cameroon, recalled that the Conference had decided that accredited representatives should submit credentials signed by the Ministers for Foreign Affairs of their respective countries. In his view, the Conference should abide by its initial decision.

Mr. USHAKOV (Union of Soviet Socialist Republics) agreed with the President. Also, the Soviet delegation wished to state that it did not and could not recognize the credentials submitted by the representative of South Viet-Nam, since the Government of that country did not represent all southern Viet-Nam.

After a procedural discussion in which Mr. FOLCHI (Italy), Mr. LOBO (Brazil) and Mr. CROSSIH (France) took part, the PRESIDENT proposed, as a compromise, that the representative of Cameroon should be permitted to participate in the work of the Conference, and in the voting, until the end of the morning meeting on Friday, 1 December, on the understanding that if no communication had by then been received from his Government, he would be considered as not being accredited by credentials in good and due form.

It was so decided.

The PRESIDENT pointed out that the representative of the Republic of Viet-Nam had not submitted her credentials until 30 November, although the closing date for the submission of credentials had been 27 November.

Miss NGUYEN LE DUNG (Republic of Viet-Nam) said that her delegation's delay in submitting its credentials was due to the fact that her country, which had originally had observer status only, had decided towards the end of the session to participate in the Conference as a member in order to support the position of the Group of 77 and to vote with the members of that Group.

Replying to the representative of the Soviet Union, she pointed out that the Republic of Viet-Nam had always participated in international conferences organized by the United Nations. Hence it was fully entitled to participate in the Conference as a member. Her delegation regretted that the representative of the USSR had seen fit to engage in political controversy in an essentially technical body.

Mr. POLASCHEK (New Zealand) and Mr. PATHMARAJAH (Sri Lanka) observed that the representatives of the Republic of Viet-Nam and Iran had submitted their credentials on the same day and should therefore be treated in the same way.

Mr. MANSOUR GUEYE (Senegal) said that, now that the Conference had decided that the representative of Cameroon could participate in the discussions and in the voting while awaiting his new credentials, there was no reason why it should not recognize the validity of credentials which had already been submitted.

The Conference decided to recognize the validity of the credentials of the representatives of Iran and the Republic of Viet-Nam.

Subject to the decision taken concerning the credentials of Cameroon and the validity of the credentials of Iran and the Republic of Viet-Nam, the Conference took note of the report of the Credentials Committee (E/CONF.59/16).

ADOPTION OF AGREEMENTS AND OF THE FINAL ACT OF THE CONFERENCE (agenda item 24)

Adoption of the draft final Act of the Conference (E/CONF.59/L.6)

The PRESIDENT proposed that the Conference should adopt the draft Final Act of the Conference (E/CONF.59/L.6) paragraph by paragraph.

It was so decided.

Paragraphs 1 and 2

Paragraphs 1 and 2 were adopted.

Paragraph 3

Mr. MASKOW (Executive Secretary of the Conference) said that paragraph 3 would have to be amended in the light of the changes to be made in the report of the Credentials Committee (E/CONF.59/40), following the decisions just taken by the Conference in that connection.

In addition, the secretariats of UNCTAD, EEC and EFTA should be mentioned in the sub-paragraph listing the international organizations represented at the Conference.

Paragraph 3 was adopted, subject to those changes.

Paragraphs 4 to 10

Paragraphs 4 to 10 were adopted.

Paragraph 11

Mr. MASKOW (Executive Secretary of the Conference) observed that the Conference would have to decide not only where the original of its Final Act, but also where the documents of the Conference, were to be deposited. In that connection, he pointed out that in rule 16, paragraph 4, of the rules of procedure, it was stated that the Conference would determine where and by whom its documents would be kept and would establish rules and conditions for their safe custody.

The PRESIDENT proposed that the beginning of the last sentence of paragraph 11 should be replaced by the words: "The original of the Final Act will be deposited with the Secretary-General of the United Nations, who will send ....". He also proposed that the documents of the Conference should likewise be kept by the Secretary-General of the United Nations.

It was so decided.

Paragraph 11, as amended, was adopted.

The draft Final Act of the Conference (E/CONF.59/L.6), as amended, was adopted.[7/]

Draft Customs Convention on Containers, 1972 (E/CONF.59/37 and Corr.1-3, E/CONF.59/42, E/CONF.59/L.7).

Mr. DUQUESNE (France), speaking as Chairman of the Second Main Committee, drew attention to the fact that the Second Main Committee had included in its report (E/CONF.59/37 and Corr.1-3) the texts it had approved, for submission to the Conference, i.e. the text of the 1972 draft Customs Convention on Containers and that of the annexes to that Convention (E/CONF.59/37 and Corr.3, part II).

With regard to the final clauses of the draft Convention, the Second Main Committee had merely expressed some general views, particularly concerning the need for a uniform application of the technical clauses of a convention that was itself technical. The wording of those final clauses was at present being considered by the Joint Meeting of the First and Second Main Committees. The Drafting Committee was considering certain formulations which had been approved by those two Committees and by the Joint Meeting.

In addition, the Second Main Committee had approved three draft resolutions (E/CONF.59/37 and Corr.2, annexes 1-3) for submission to the plenary Conference. The first, entitled "Draft resolution concerning transit of containers destined for land-locked countries", dealt with the facilities to be accorded to land-locked countries in respect of container traffic; the second, entitled "Draft resolution concerning the Customs Convention on the International Transit of Goods", Governments were recommended to consider the possibility of becoming Contracting Parties to the Customs Convention on the International Transit of Goods (ITI Convention) drawn up under the auspices of the Customs Co-operation Council and adopted at Vienna on 7 June 1971, while the third, entitled "Draft resolution concerning facilitation of health control operations", dealt with the health aspects of container traffic.

Report of the Second Main Committee (E/CONF.59/37 and Corr.1-3)

The PRESIDENT proposed that the Conference should consider the report of the Second Main Committee (E/CONF.59/37 and Corr.1-3), paragraph by paragraph.

It was so decided.

7/ For the text adopted, see "Final Act of the Conference: note by the Secretariat" (E/CONF.59/44).

Part I (paras. 1-122)

Paragraph 1

Paragraph 1 was approved.

Paragraph 2

Mr. QUARTEY (Ghana) requested that the name of his country be added to the list of States which had taken part in the work of the Second Main Committee.

It was so decided.

Mr. MARCH (Executive Secretary of the Conference) said that a reference to the secretariats of UNCTAD, ICAO and IAEA should be inserted in paragraph 2, as in paragraph 3 of the Final Act of the Conference.

It was so decided.

Paragraph 2, as amended, was approved.

Paragraphs 3 to 121

Mr. GUILLAUME (France), speaking as the Chairman of the Second Main Committee, said that part I of the report reflected the discussions and decisions of the Second Main Committee. The Conference could accept it or reject it, but not amend it.

Paragraphs 3 to 121 were approved.

Paragraph 122 and draft resolution concerning facilitation of health control operations (E/CONF.39/37, annex 3, E/CONF.39/L.7)

The PRESIDENT said that the Conference had before it a proposal by the USSR incorporated in a note by the Secretariat entitled "Various questions concerning the facilitation of control operations" (E/CONF.39/L.7), designed to supplement the draft resolution concerning the facilitation of health control operations (E/CONF.39/37, annex 3), mentioned in paragraph 122 of the Second Main Committee's report.

Mr. USHAKOV (Union of Soviet Socialist Republics), introducing the supplementary draft resolution contained in paragraph 6 of the note by the Secretariat (E/CONF.39/L.7) observed that containers could be instruments for the communication of diseases which were dangerous to man. It was therefore necessary to undertake systematic research, with a view to effective sanitary, phytosanitary and veterinary control for the protection of human life. A convention on the subject would be useful, and the Economic and Social Council seemed to be the competent body to arrange for the drafting of such a convention.

Mr. CHESTNEY (United Kingdom) thought that, although international container traffic was at present greatly increasing, the increase in traffic had no particular implications for the organization or effectiveness of health control. In addition, WHO was certainly more competent than the Economic and Social Council to deal with the health control aspects, and was indeed already studying them.

Mr. TOMCIĆ (Yugoslavia), Mr. YEMETS (Ukrainian Soviet Socialist Republic) and Mr. POLGÁRI (Hungary) supported the USSR proposal. No one could object to it on principle.

Mr. [illegible] (Federal Republic of Germany) felt that the principle underlying the USSR proposal would indeed command unanimous support, but, as the question of health control went far beyond the framework of container transport operations, the idea of drafting a health control convention relating exclusively to international container traffic seemed to be misguided. Also, he agreed with the United Kingdom representative that the Economic and Social Council was not the most competent body to deal with the matter.

Mr. [illegible] (France) agreed with the representative of the Federal Republic of Germany. He also pointed out that container transport was safer than other types of transport from the health point of view, because containers were sealed. Control operations would be difficult because of the impossibility of opening containers.

However, the principle underlying the Soviet proposal was sound and the French delegation would accept it if it were drafted in more general terms.

Mr. [illegible] (Sweden) said that he too was unable to support the Soviet proposal as it stood. It went much further than what had been contemplated unofficially at the beginning of the Conference.

Mr. KINGA (Turkey) said that he would accept the Soviet proposal if the request were addressed to WHO, for example, and not to the Economic and Social Council, and if it called for the elaboration not of a special convention but rather of a set of regulations which would be inserted in the international health regulations elaborated by the World Health Assembly.

The PRESIDENT suggested the following wording at the beginning of the draft resolution: "... the possibility of drawing up a convention or a set of regulations ...".

Mr. POPOV (Bulgaria) supported the Soviet proposal, as amended by the President.

Mr. O'LOUGHLIN (United States of America) said he doubted whether the Conference was competent to say that the Economic and Social Council was the most appropriate body to explore the possibility of drawing up a convention or a set of regulations on health control. Other organizations might justifiably believe that they were more competent than the Economic and Social Council in that field. He therefore proposed the following wording: "the [illegible] Governments and international organizations to explore the possibility of drawing up a convention or a set of regulations ...".

Mr. CHERNY (Union of Soviet Socialist Republics) accepted the amendments proposed by the President and by the representative of the United States of America.

The proposal (E/CONF.59/L.1, para.6) to the effect that [illegible] facilitation of [illegible] was adopted [illegible].

The PRESIDENT suggested that the text just adopted be added to the operative part of the draft resolution contained in annex I to the report of the Second Main Committee.

It was so decided.

[illegible] to the resolution [illegible] was approved.

The resolution [illegible] as a whole, as amended, was adopted.

[illegible]

Article 1

Article 1 was [illegible].

Article 2

Mr. CHERNY (Union of Soviet Socialist Republics) said that paragraph 2 of article 2, even as amended by the Second Main Committee, was still unnecessary, because if a container were seized by the public authorities, the question of re-exportation did not arise, since the container ceased to be under the control of the importer. If it were seized by a private party, article 7, paragraph 1, enabled the Customs authorities to extend the time-limit for re-exportation if they thought fit. On the other hand, his delegation did not think that, in the event of a dispute between two private parties, one of the parties would, in every case, be able to benefit from the right established in article 7, paragraph 1, to retain a container beyond the prescribed time-limit without payment of Customs duties.

1/ For the adoption of the draft resolution, see the summary record of the 7th plenary meeting.

His delegation therefore proposed that paragraph 2 of article 5 should be deleted.

Mr. OKAWA (Japan) and Mr. POLASCHEK (New Zealand) supported the United Kingdom proposal.

Mr. QUELOZ (Switzerland) was in favour of retaining article 5, paragraph 2. A similar clause existed in other Customs conventions, but the provisions had been made more general by the Second Main Committee.

The PRESIDENT put the United Kingdom proposal to the vote.

The result of the vote was 9 in favour and 41 against, with 14 abstentions.

The proposal was not adopted, having failed to obtain the required two-thirds majority.

Article 5 was adopted.

Articles 6 to 9

Articles 6 to 9 were adopted. 9/

Article 10

Mr. PARDJA (Argentina) proposed an amendment to paragraph 1 of article 10 which would, in his delegation's opinion, safeguard the interests of developing and developed countries alike. It should be stated that the temporary admission of component parts would not be granted unless the national industry of the Contracting Party in whose territory the repairs were to be made was not able to provide the parts.

Mr. MANSOUR GUEYE (Senegal), Mr. BURGA-CISNEROS (Peru), Mr. COPPINE (Chile), Mr. AKANDE (Ivory Coast), Mr. CASTILLO MAJENA (Mexico), Mr. SAPOU KAPANVULE KALELA (Zaïre) and Mr. OSANYA-NYYNDQUE (Kenya) supported that proposal.

After a discussion on the wording of the proposal, in which Mr. SAPOU KAPANVULE KALELA (Zaïre), Mr. LOBO (Brazil) and Mr. OSANYA-NYYNDQUE (Kenya) took part, Mr. GODFREY (United Kingdom) proposed that the Conference should defer its decision on the Argentine proposal until the following meeting, when the proposal would be circulated in writing.

The United Kingdom proposal was adopted.

Articles 11 to 13

Articles 11 to 13 were adopted.

9/ For the amendments subsequently made to article 9, see the summary records of the 10th and 11th plenary meetings.

Article 14

Mr. van de WATERING (Netherlands), speaking on behalf of the States members of the European Communities and the States which would become members on 1 January 1973 (Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland), said that, during the Second Main Committee's consideration of the first draft of article 16, contained in the draft Customs Convention on Containers transmitted by the Secretariat in its note (E/CONF.59/22 and Corr.1 and 2), most delegations had requested that the article be deleted on the grounds that the scope of the provisions of article 14 was adequate (E/CONF.59/37, para.45). However, the States members of the European Communities found themselves in some difficulty, because there would no longer be any reference, in an international convention, to Customs and economic unions. Those States were bound by the Treaty of Rome, which established the European Economic Community, 10/ and by the existing legislation deriving therefrom, which provided, for example, for a single Customs territory at the frontiers of which the common Customs tariff was applied and to which the instruments of the Community, particularly those relating to Customs legislation, made specific reference. However, article 14 referred only to greater facilities which could be granted by the Contracting Parties and contained no reference to Customs or economic unions. Nor could it be interpreted as referring to them. Accordingly, the States concerned, which were anxious to be able to sign the Convention, proposed that the following additional provision should be re-inserted either after article 14 or after article 15: "For the application of the present Convention, Contracting Parties which form a Customs or economic union may agree that their territories are to be considered as a single territory". A similar provision was contained in various international Customs conventions and, in particular, in the Customs Convention on the International Transit of Goods (ITI Convention of 1971), which was the subject of the draft resolution contained in annex 2 of the report of the Second Main Committee.

He stressed the fact that that proposal should not be interpreted as suggesting that the States members of the European Communities intended to adopt a restrictive policy with regard to the circulation and use of containers temporarily imported into the single Customs territory. Those States intended to simplify the formalities as much as possible, in order to facilitate container transport.

Mr. O'LOUGHLIN (United States of America), supported by Mr. OKAWA (Japan), Mr. USHAKOV (Union of Soviet Socialist Republics), Mr. REYNOLDS (Canada) and Mr. LONGE (Nigeria), said he still believed - with regard to that question, which had been discussed at great length in the Second Main Committee - that the provisions of article 14 adequately protected the interests of Customs or economic unions (E/CONF.59/37, para.44).

Mr. ACOUROLLACOS (Greece) and Mr. TCHANGOUE (Cameroon) supported the Netherlands proposal.

10/ United Nations, Treaty Series, vol.298 (1958), No.4300.

Mr. KIRCA (Turkey) also supported the Netherlands proposal in principle. It was useful and necessary because, if Contracting Parties had the right to form Customs unions, they should be able to benefit from the definitions listed in article 1.

However, in the text proposed by the Netherlands, the words "or economic" should be deleted, since an economic union represented a more advanced stage than a Customs union, with the result that, by definition, a single Customs territory already existed.

In addition, some portion of the territory of a State which was a member of a Customs union might, in theory, not be part of the union. The proposed provision should therefore be expanded to state that: "... their territories covered by the Customs union are to be considered ...".

Mr. FENGER (Denmark) approved the proposed new provision with the amendments suggested by Turkey.

Mr. LOBO (Brazil) said that, in article 14, the words "by other States Parties to the Convention" should be deleted. If they were not, the text should read: "by all States Parties to the Convention".

Mr. van de WETERING (Netherlands) said that the amendments proposed by Turkey and Brazil were acceptable to the States members of the European Communities which had sponsored the proposal.

Mr. PAREJA (Argentina) requested that the Conference should defer its decision on article 14 and on the Netherlands proposal regarding the additional article to be inserted until the text of the proposal had been circulated in all the working languages. 11/

The proposal of the representative of Argentina was adopted.

Article 15

Mr. PAREJA (Argentina) said that, in article 15, the words "or an article" should be deleted because, legally, only a person could benefit from the provisions of the Convention.

Mr. COPPENE (Chile) recognized that the Argentine representative's objection was valid from the strictly legal standpoint, but pointed out that the term "article" referred implicitly to the owner of the article, and that international trade law offered numerous examples of abbreviated formulations of that kind.

11/ The text of the proposed article, numbered 15 bis, was subsequently circulated in a note by the Secretariat (E/CONF.59/L.3 and Corr.1).

Mr. KIRCA (Turkey) thought that, from the wording of article 15, it was clear that it was the offender who was liable to penalties. The provisions of the Convention could apply either to persons or to articles, as indicated in article 2, which stated that containers benefited from the provisions of the Convention. The words "or an article" should therefore, in his opinion, be retained in article 15.

Mr. FENGER (Denmark) fully shared that opinion.

Mr. OGANYA-NYYIGUL (Kenya) thought that, if the words in question would create confusion in the interpretation of the article, they should be deleted.

Mr. SUBIALDEA (Mexico) supported the Argentine proposal, which seemed to be necessary to make the meaning clear. Offences were, in fact, actions which could be imputed only to persons.

Mr. DUQUESNE (France) agreed with the Turkish representative. The crucial point was the status of the goods, and it was that status which established the claim of the authorities against the person having the article at his disposal.

Mr. GODFREY (United Kingdom) considered that the wording of article 2 eliminated any doubts on the question of whether articles - containers in the present case - could benefit from the provisions of the Convention.

Mr. POPOV (Bulgaria) shared that point of view.

Mr. PAREJA (Argentina) said that the purpose of his proposal was only to correct what seemed to him to be a legal inaccuracy. The deletion of the words "or an article" would not alter the substance, since it was clear that it was the owner or the operator of the article who benefited from the provisions of the Convention, and the owner or operator was covered by the term "a person". In the circumstances, his delegation would not press its proposal.

Article 15 was adopted.

Articles 16 and 17

Articles 16 and 17 were adopted.

The meeting rose at 6.45 p.m.

SUMMARY RECORD OF THE SEVENTH PLENARY MEETING

held on Friday, 1 December 1972, at 9.50 a.m.

President: Mr. KOTOV Union of Soviet Socialist Republics

ADOPTION OF AGREEMENTS AND OF THE FINAL ACT OF THE CONFERENCE
(agenda item 14) (continued)

Draft Customs Convention on Containers, 1972 (continued)

Report of the Second Main Committee (continued) (E/CONF.59/37 and Corr.1-3; E/CONF.59/42, annex I, 4)

Part II: and report of the Drafting Committee (E/CONF.59/42, annex I, 1) (continued)

The PRESIDENT, noting that certain articles of the draft Customs Convention on Containers, 1972 (E/CONF.59/37 and Corr.3, part II) were still being considered by the First and Second Main Committees at their joint meeting and by the Drafting Committee, invited the Conference to consider annexes 1-7 to the draft Convention. It should be assumed that the drafting changes in all languages suggested in the report of the Drafting Committee (E/CONF.59/42, annexes) had been incorporated in the text.

Annexes to the draft Customs Convention on Containers, 1972

Annexes 1 (Provisions concerning the marking of containers), 2 (Temporary admission procedure under article 7 of the Convention), 3 (Use of containers in internal traffic) and 4 (Regulations on technical conditions applicable to certain containers which may be accepted for international transport under Customs seal) (E/CONF.59/37, part II, E/CONF.59/42, annex I, 3)

Annexes 1-4 were adopted.

Annex 5 (Procedures for the approval of containers complying with the technical conditions prescribed in annex 4) (E/CONF.59/37, part II, E/CONF.59/42, annex I, 2)

Mr. USHAKOV (Union of Soviet Socialist Republics) pointed out that paragraph 8 of annex 5 differed from the corresponding provision in the draft International Convention for Safe Containers (see E/CONF.59/38, part II). Whereas, under the draft Customs Convention, manufacturers could apply for approval to the competent authorities in their own country, under the draft International Convention for Safe Containers, they could apply for approval to the competent authority of any country. It would seem desirable to incorporate the more flexible language of the latter Convention in the Customs Convention. He therefore proposed that in paragraph 8 the words "the country of manufacture" should be replaced by the words "any State Party to the Convention".

Mr. DUQUESNE (France) pointed out that the purposes of the Customs Convention were quite different from those of the Safety Convention. Whereas the latter was primarily intended to safeguard human life, the former involved acceptance by Contracting Parties of the principle that containers manufactured in accordance

with certain standards should be used in their territory for the transport of goods in transit under Customs seal. The standards could be satisfactorily controlled only by the competent authorities of the Contracting Parties themselves. The USSR proposal had the effect of giving the same advantages to Contracting and non-Contracting Parties, a course which seemed incompatible with the generally accepted principles of international law.

Mr. QUELOZ (Switzerland) and Mr. BENZAR-VANOTTI (Federal Republic of Germany) supported the observations made by the French representative.

Mr. USHAKOV (Union of Soviet Socialist Republics) pointed out that the more flexible approach inherent in his delegation's proposal would promote the development of containerization and economic progress in the developing countries, which would be able to order containers manufactured in other countries.

Mr. DUQUESNE (France) said that there was nothing to prevent a developing country or a Contracting Party from approving or obtaining approval from another Contracting Party for containers manufactured in States which were not Contracting Parties. What was important was that approval should always be given by a Contracting Party, irrespective of where the containers were manufactured. The present text was sufficiently flexible for that purpose.

The PRESIDENT invited the Conference to vote on the USSR proposal.

The result of the vote was 21 in favour and 18 against, with 20 abstentions.

The proposal was not adopted, having failed to obtain the required two-thirds majority.

Annex 5 was adopted.

Annex 6 (Explanatory notes) (E/CONF.59/37, part II, E/CONF.59/37/Corr.2, E/CONF.59/42, annex I, 2)

Annex 6 was adopted.

Annex 7 (Composition and rules of procedure of the Administrative Committee, provided for under article 23 of the Convention) (variant A) (E/CONF.59/37, part II)

The PRESIDENT suggested that, since annex 7 related to the final provisions of the Convention, it should be considered at a later stage.

It was so decided. 12/

12/ See the summary record of the 10th plenary meeting.

Draft resolution concerning transit of containers destined for land-locked countries (E/CONF.59/37, annex 1)

The draft resolution concerning transit of containers destined for land-locked countries was adopted. 13/

Draft resolution concerning the Customs Convention on the International Transit of Goods (ITI Convention) (E/CONF.59/37, annex 2)

Mr. HALLINGER (Austria) said that his delegation, together with four others, had submitted the draft resolution because they considered it important that the Conference should recognize the part which the Customs Convention on the International Transit of Goods (ITI Convention) could play in facilitating international container transport. The ITI Convention and the Customs Convention on Containers were complementary, and their application would be of considerable benefit to international trade.

The draft resolution concerning the Customs Convention on the International Transit of Goods was adopted. 14/

Draft resolution concerning facilitation of health control operations (concluded) (E/CONF.59/37, annex 3; E/CONF.59/L.7)

The PRESIDENT noted that at its 6th plenary meeting, during its consideration of paragraph 122 of the report of the Second Main Committee (E/CONF.59/37), the Conference had decided to incorporate in the operative part of the draft resolution contained in annex 3 of that report a recommendation concerning the possibility of drawing up a convention or a set of regulations on the subject of health control measures (E/CONF.59/L.7, para.6); the text of that recommendation, submitted by the USSR, had been amended and adopted by the Conference.

Mr. KIRCA (Turkey) proposed that in the first sentence of sub-paragraph (a) of operative paragraph 1 the words "and conventions" should be replaced by the words "conventions, agreements and regulations", in order to take account of the international standards established by WHO.

The Turkish amendment was adopted.

The draft resolution concerning facilitation of health control operations, as amended, was adopted. 15/

13/ See "Final Act of the Conference: note by the Secretariat" (E/CONF.59/6), resolution No.1 entitled "Transit of containers destined for land-locked countries".

14/ Ibid., resolution No.2 entitled "Customs Convention on the International Transit of Goods (ITI Convention)".

15/ Ibid., resolution No.3 entitled "Facilitation of health control operations".

The PRESIDENT suggested that the Conference should postpone consideration of the provisions of the Customs Convention which had not yet been adopted, until the relevant documents became available.

It was so decided.

Draft International Convention for Safe Containers (E/CONF.59/38 and Corr.1-4, E/CONF.59/42, annex I, ii)

Mr. BISHOP (United States of America), Chairman of the First Main Committee, introducing the Committee's report (E/CONF.59/38 and Corr.1-3), said that the Committee's aims had been to specify common structural requirements, to protect human life and to facilitate the stacking and transport of containers. The text of the draft International Convention for Safe Containers contained in part II of the Committee's report represented a compromise by all the participants in the Committee. It reflected a new approach, in that it had been developed before individual Governments had introduced regulations relating to safe container transport. The Committee was confident that the Convention would contribute to the development of containerization.

Report of the First Main Committee (E/CONF.59/38 and Corr.1-3)

The PRESIDENT invited the Conference to consider the report of the First Main Committee (E/CONF.59/38 and Corr.1-3). Delegations whose names had been omitted from paragraph 2 of part I of the report were invited to inform the Secretariat, which would add their names.

Part I (paras.1-59)

The Conference took note of part I of the report of the First Main Committee (E/CONF.59/38 and Corr.1-3, paras. 1-59).

Part II and report of the Drafting Committee (E/CONF.59/42, annex I, ii)

The PRESIDENT recalled that the Conference had decided at the 6th meeting, during the consideration of the draft Customs Convention on Containers, contained in part II of the report of the Second Main Committee, to take into account, in examining the text, the amendments proposed by the Drafting Committee. He suggested that the Conference should follow the same procedure in considering the draft International Convention for Safe Containers, contained in part II of the report of the First Main Committee. He recalled that the amendments proposed by the Drafting Committee were listed in the annexes to its report (E/CONF.59/42, annex I (ii) (English text), annex II (ii) (French text), annex III (ii) (Russian text) and annex IV (ii) (Spanish text).

Preamble

The preamble was adopted.

Article I (General obligation under the Convention)

Article I was adopted.

Article II (Definitions)

Mr. USHAKOV (Union of Soviet Socialist Republics) suggested that the consideration of article II concerning definitions should be deferred, since a question which had been raised in connexion with paragraph 6 of the article, relating to the term "international transport", was still being considered by the Joint Meeting of the First and Second Main Committees.

It was so decided. 10/

Article III (Application)

Article III was adopted.

Article IV (Testing, inspection, approval and maintenance)

Mr. SLATER (United Kingdom) proposed the addition of the following proviso at the end of paragraph 2: "except that, wherever possible, application for approval shall be made to the Administration of the country of manufacture". The purpose of that proviso was to prevent a manufacturer who had been refused, or felt uncertain of obtaining, a Safety Approval Plate in his own country from attempting to obtain one in a country with less strict requirements.

Mr. USHAKOV (Union of Soviet Socialist Republics) said that, in his delegation's view, such a restriction was not desirable. Many countries did not possess a body technically qualified to consider applications for approval. Manufacturers in such countries should be allowed to submit applications in a foreign country having experience in the matter of containers. The United Kingdom amendment would appear to limit that possibility and might therefore be detrimental to the safe transport of containers.

Mr. BATSHOT GUEYE (Senegal) said that he was inclined to agree with the United Kingdom representative, whose proposal would serve to prevent manufacturers from obtaining Safety Approval Plates from countries of convenience.

Mr. HOOK (United States of America) said that the existing text of paragraph 3 provided a broad and flexible mechanism for obtaining approval for containers anywhere in the world. While it had been hoped that the future International Convention for Safe Containers would be capable of securing world-wide application, it had been realized that some States, for understandable reasons of their own, were unlikely to sign it. It had therefore been felt that the interests of safety would be best served if all containers, regardless of their place of manufacture, could receive a Safety Approval Plate. There was admittedly some logic in the United Kingdom proposal, and his own delegation had made a proposal on similar lines at the Joint ECE/IMCO Meetings which had prepared the draft

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10/ For the adoption of article II, see the summary record of the 10th plenary meeting.

Convention. It had, however, withdrawn that proposal, because it had felt that the matter was satisfactorily covered by the control which States could exercise over manufacturers on their own territory.

Mr. GROSSIN (France) supported the United Kingdom amendment.

The PRESIDENT put the United Kingdom proposal to the vote.

The result of the vote was 21 in favour and 19 against, with 20 abstentions.

The proposal was not adopted, having failed to obtain the required two-thirds majority.

The PRESIDENT said that, if there were no further comments, he would consider that the Conference agreed to adopt article IV unchanged, subject to the replacement of the words "Depositary of the Convention" within square brackets in paragraph 2 by the words "the Secretary-General of the Inter-Governmental Maritime Consultative Organization", in accordance with the decision already taken by the Conference (2nd plenary meeting).

It was so decided.

Article V (Acceptance of approval)

Article V was adopted.

Article VI (Control)

Article VI was adopted.

The PRESIDENT said that the Conference had now completed its consideration of the articles of the draft International Convention for Safe Containers, except for article II and the final provisions, on which a report was still awaited from the Joint Meeting of the First and Second Main Committees. He invited the Conference to consider the annexes to the draft Convention.

Annex I (Regulations for the testing, inspection, approval and maintenance of containers) and annex II (Structural safety requirements and tests)

Mr. GARCIA (United Kingdom) said that he had some minor drafting points to raise with regard to paragraphs 14 and 15 of article II, as amended by the Drafting Committee (see E/CONF.59/2, annex I (ii), para.4) and also with regard to the annexes to the draft Convention.

The PRESIDENT suggested that the United Kingdom representative should submit his suggestions to the Secretariat. On that understanding, and in the absence of further comments, he would assume that the Conference agreed to adopt annexes I and II to the draft Convention.

Annexes I and II were adopted.

The Conference took note of the report of the First Main Committee (E/CONF.59/78 and Corr.1-3) as a whole.

EXCHANGES OF VIEWS ON GENERAL POLICY QUESTIONS RELATING TO:

(a) THE LIABILITY AND DOCUMENTARY REGIME FOR INTERNATIONAL INTERMODAL TRANSPORT,

(b) TRANSPORT POLICY OPTIONS WITH RESPECT TO CONTAINERIZATION IN INTERNATIONAL INTERMODAL TRANSPORT (agenda item 11),

and

STANDARDIZATION QUESTIONS (agenda item 12)

Report of the Third Main Committee (E/CONF.59/39 and Corr.1, E/CONF.59/39/Add.1 and Corr.1, E/CONF.59/39/166.2, E/CONF.59/144.3 and annexes I and II)

Mr. RAJA (India), Chairman of the Third Main Committee, introducing the Third Main Committee's report (E/CONF.59/39 and Corr.1, E/CONF.59/39/Add.1 and Corr.1, E/CONF.59/39/A/C.3/L.166.2, E/CONF.59/144.3 and annexes I and II), said that the Committee had considered two items on the Conference agenda: item 11, dealing with general policy questions relating to international intermodal transport, and item 12, dealing with standardization questions.

With regard to agenda item 11, two broad views had been expressed. The first, which had been put forward by countries with experience in the field of container traffic and intermodal transport, had been that an international convention on combined transport was necessary in order to harmonize national laws and evolve new legislation. The second view, which had been put forward by countries without any experience in that field, had been that the need for such a convention could not be assessed without a comprehensive study to establish its economic implications for developing countries. In spite of prolonged discussions, both in the Committee itself and in groups outside it, it had not been possible to arrive at a consensus. The draft resolution which had been approved on the subject by a majority vote (see E/CONF.59/39/Add.3, para.163) represented a compromise only to the extent to which it had been possible to achieve one.

On the question of standardization, dealt with under agenda item 12, there had been general agreement in the Committee that the work being done by ISO should be encouraged and supported. It had also been agreed that there should be some follow-up action to review the progress of ISO's work so that an international agreement on standardization could eventually be reached. The draft resolution approved by the Committee on the subject (ibid., para.183) reflected those views.

Mr. [illegible] (Argentina) said that the opening words of paragraph 10 of the Third Main Committee's report (E/CONF.59/39), which read "Brazil, supported by several delegations from developing countries ...", did not accurately reflect the real position. In fact, Brazil had spoken on behalf of the developing countries, some of which had, of course, also made statements.

Mr. [illegible] (Executive Secretary of the Conference) said that, while it would be possible to correct clerical errors and omissions in the report, the substance could not be altered.

Mr. [illegible] (German Democratic Republic) pointed out that his country had been omitted from the list of participants in paragraph 2 of the report.

Mr. [illegible] (Sri Lanka) said that several other countries which did not appear in that list had actually taken part in the final stages of the work of the Third Main Committee. Omissions of this kind should be treated in the same manner as clerical errors.

Mr. [illegible] (Canada) suggested that the points raised by the representatives of the German Democratic Republic and Sri Lanka could be covered by including their statements in record.

Mr. [illegible] (German Democratic Republic) said that he shared the view expressed by the representative of Sri Lanka. Owing to his delegation's late arrival, it had had no opportunity to consider the draft report of the Third Main Committee.

Mr. [illegible] (Executive Secretary of the Conference) said that the Secretariat would in due course have to prepare a revised version of the Third Main Committee's report, incorporating all the addenda and corrigenda to document E/CONF.59/7. The Conference might wish to approve the Secretariat to correct the errors and omissions to which attention had been drawn during the present discussion.

Mr. [illegible] (Ukrainian Soviet Socialist Republic) said that the Third Main Committee had completed the consideration of its report before adopting its resolution on agenda item 11. When the vote had been taken on that resolution, representatives who had participated in that vote but whose delegations were not listed in paragraph 7 of document E/CONF.59/7 had requested that a suitable correction should be made. He therefore suggested that, with the approval of the Chairman of the Third Main Committee, the Conference should now agree to rectify that omission.

The [illegible] suggested that the Conference should agree to the correction of errors and omissions in the report, provided that the substance was not affected and that the debate on the issues involved was not reopened.

It was so agreed.

Mr. [illegible] (Sri Lanka) said that it was necessary to make two corrections in the text of the report. First, the words "and that the Committee's mandate to do so" in the first sentence of paragraph 116 (E/CONF.59/7/Add.1) should be corrected to read "of the Committee's mandate to do so". Secondly, [illegible] should be inserted immediately before paragraph 116 (iii).

The [illegible] said that, if there were no further comments on the parts of the Third Main Committee's report contained in documents E/CONF.59/7 and Corr.1, E/CONF.59/7/Add.1 and Corr.1 and E/CONF.59/7/Add.2, he would consider that, subject to the various corrections which had been mentioned, the Conference approved those parts of the report.

It was so [illegible].

Mr. VOELKER (Federal Republic of Germany) thought that the participation of the regional economic commissions would be better safeguarded by the wording "in co-operation with other organizations of the United Nations concerned, as appropriate".

Mr. SAVELIEV (Secretary, Maritime Safety Committee, Inter-Governmental Maritime Consultative Organization) said that IMCO could accept either the text proposed by Ghana or the text proposed by the Federal Republic of Germany.

Mr. LOBO (Brazil) said that, although he believed the existing wording was quite satisfactory, he was prepared to accept either of those two texts.

Mr. COVEÑA (Chile) said his delegation took the same view.

The PRESIDENT said that, in the absence of any objection, he would assume that the Conference agreed to adopt the amendment suggested by Ghana, with the modification suggested by the Federal Republic of Germany.

It was so agreed.

The draft resolution contained in annex II of document E/CONF.59/39/Add.3, as amended, was adopted. 17/

Mr. OKAWA (Japan) said that his Government, while recognizing the desirability of standardizing the various types of containers, considered that standardization should not be achieved by means of governmental regulations or intergovernmental agreement, but rather through the joint efforts of non-governmental bodies, based on recommendations of ISO and taking into account internal road and railway regulations and commercial practices.

Mr. BRADLEY (United Kingdom), Mr. BERGMAN (Sweden), Mr. van de WETERING (Netherlands), Mr. ADAMSEN (Denmark), Mr. REYNOLDS (Canada), Mr. ARMSTRONG (United States of America), Mr. BERG (Norway) and Mr. WILLIAMS (Australia) associated their delegations with the statement made by the representative of Japan.

Draft resolution on international combined transport (E/CONF.59/39/Add.3, annex I)

The PRESIDENT invited the Conference to consider the draft resolution relating to agenda item 11 contained in annex I of document E/CONF.59/39/Add.3.

Mr. LOBO (Brazil), introducing the draft resolution, said that Bangladesh and El Salvador should be added to the list of sponsors. It was essential that a single body should co-ordinate the studies to be carried out on the international combined transport of goods, and it was therefore proposed in operative paragraph 1 (a) of the draft resolution that such studies should be carried out by UNCTAD. It was proposed that the work should be completed by the end of 1974 in order to provide ample time for a draft convention on international intermodal transport to be reviewed in the light of studies and for a plenipotentiary conference to be convened by the end of 1975 in order to finalize the draft convention.

17/ Ibid., resolution No.4, entitled "Container standards for international intermodal transport".

Mr. SELVIG (Norway) recalled that in the Third Main Committee his delegation had submitted, on behalf of the countries mentioned in paragraph 147 of that Committee's report (E/CONF.59/39/Add.3), certain amendments referred to in that paragraph. Since the amendments had not been approved by the Committee, the delegations of those countries would be unable to vote in favour of the draft resolution.

Mr. SAPOU KAPANVUE KALELA (Zaire) suggested that the words "African countries" after the words "Council of Ministers" in the third preambular paragraph should be replaced by the words "the Organization of African Unity".

The amendment of Zaire was adopted.

At the request of the representative of Brazil, the vote on the draft resolution, as amended, was taken by roll-call.

Canada, having been drawn by lot by the President, was called upon to vote first.

In favour: Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Ecuador, Egypt, El Salvador, Ethiopia, German Democratic Republic, Ghana, Guatemala, Hungary, India, Indonesia, Iraq, Ivory Coast, Jamaica, Kenya, Khmer Republic, Malaysia, Mexico, Nigeria, Pakistan, Panama, Peru, Poland, Republic of Korea, Republic of Viet-Nam, Romania, Saudi Arabia, Senegal, Singapore, Sri Lanka, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Venezuela, Yugoslavia, Zaire, Algeria, Argentina, Bangladesh, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon.

Against: Canada, Denmark, Finland, France, Germany (Federal Republic of), Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Austria, Belgium.

Abstaining: Greece, Spain.

The result of the vote was 52 in favour and 18 against, with 2 abstentions.

The draft resolution, as amended, was adopted, having obtained the required two-thirds majority. 18/

Mr. SELVIG (Norway), speaking in explanation of vote on behalf of his own delegation and of the delegations of Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, Finland, France, Italy, Japan, the Netherlands, New Zealand, Portugal, Spain, Sweden, Switzerland, the United Kingdom and the United States of America, said that those delegations had spared no effort to reach

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18/ Ibid., resolution No.7, entitled "International combined transport".

a compromise text that could be accepted by all delegations. They had not voted in favour of the resolution, because they believed that the studies proposed in paragraph 1 (a) of the resolution were extremely broad in scope and consequently went beyond the competence of the organization chosen to co-ordinate them. Intermodal transport covered many areas of commercial activity in which UNCTAD did not have primary responsibility within the United Nations system. All organizations with expertise in the wide-ranging field of intermodal transport, including UNCTAD, should have an equal chance to contribute, within their respective fields of competence, to the studies in question. If co-ordination were necessary, it should be the responsibility of a more appropriate body, such as the Economic and Social Council.

The most immediate problems in the field of intermodal transport were those of liability and the documentary régime. While settlement of those problems would not preclude a preliminary discussion of other related aspects of intermodal transport, to attempt to cover everything in one draft convention, as was proposed in paragraph 1 (b) of the resolution, might result in an unacceptable delay in reaching agreement on the most pressing issues. Work on those issues might now proceed outside the United Nations or even outside the sphere of national Governments. The countries on whose behalf he was speaking were also much concerned about the time-link between sub-paragraphs (c) and (d) of paragraph 1 of the resolution, which was likely to delay the convening of the proposed international conference and the finalization of a convention on the liability and documentary régime of intermodal transport.

With regard to the technical and other assistance referred to in paragraph 2, each country had its own particular approach and procedures for the consideration of requests for such assistance, and it was difficult to insert a general clause that would be appropriate in all cases. Individual delegations among those for which he was speaking were obliged, therefore, to reserve their position on the extent to which the adoption of paragraph 2 of the resolution committed their Governments to providing resources at existing or additional levels for the purposes mentioned.

The PRESIDENT suggested that the title of the resolution which had just been adopted should read as follows: "International combined transport".

It was so decided.

REPORT OF THE CREDENTIALS COMMITTEE (concluded) (E/CONF.59/40)

The PRESIDENT reminded the Conference that it still had to take a decision on the validity of the credentials of the representatives of Cameroon, which had been signed by the Minister of Finance of that country and did not, therefore, meet the requirements of rule 3 of the rules of procedure of the Conference.

Mr. PONTI (Italy), supported by Mr. QUARTEY (Ghana), Mr. LOBO (Brazil) and Mr. SAPOU KIPELVOND KILEL (Zaire), proposed that the Conference should accept the credentials of the representatives of Cameroon as valid.

Mr. GRAY (United Kingdom) said that his delegation, while it had no objection to the proposal made by the Italian representative, wished to reserve its position, in so far as such a decision might constitute a precedent.

Mr. KUNCA (Turkey) pointed out that it was by no means uncommon for another Minister of State to be authorized to act for the Minister for Foreign Affairs in his absence, as had occurred in the present case. The Conference would not, therefore, be creating an unusual precedent by accepting the credentials of the representatives of Cameroon.

Mr. GRAY (United Kingdom) said that his delegation was prepared to withdraw its reservation, on the understanding that the Minister of Finance of Cameroon had signed the credentials in his capacity as Acting Minister for Foreign Affairs.

Mr. KOCHMAN (United States of America) said his delegation wished to associate itself with the statement made by the United Kingdom representative.

The PRESIDENT said that, if there were no objections, he would take it that the Conference decided to accept the credentials of the representatives of Cameroon, as an exception to its rules of procedure.

It was so decided.

The meeting rose at 1.10 p.m.

SUMMARY RECORD OF THE EIGHTH PLENARY MEETING

held on Friday, 1 December 1972, at 3.15 p.m.

President: Mr. ZOTOV Union of Soviet Socialist Republics

ADOPTION OF AGREEMENTS AND OF THE FINAL ACT OF THE CONFERENCE (agenda item 14) (continued)

Draft Customs Convention on Containers, 1972 (continued)

Report of the Second Main Committee (continued) (E/CONF.59/37 and Corr.1-3, E/CONF.59/42, annex I, 1; E/CONF.59/L.8 and Corr.1, E/CONF.59/L.9)

Part II and report of the Drafting Committee (E/CONF.59/42, annex I, 1) (continued)

The PRESIDENT recalled that at its 6th meeting the Conference had decided to defer further consideration of articles 10 and 14 of the draft Customs Convention on Containers, 1972. He now invited the Conference to resume its consideration of those articles, and of the text of a proposed new article 15 bis, (E/CONF.59/L.8 and Corr.1), the text of which had been proposed at the 6th meeting.

Article 10 (concluded*)(E/CONF.59/37, part II; E/CONF.59/42, annex I, E/CONF.59/L.9)

The PRESIDENT invited the Conference to take a decision on the proposal submitted by the Argentine delegation at the 6th meeting regarding paragraph 1 of article 10, the text of which had now been circulated under the symbol E/CONF.59/L.9.

Mr. LOBO (Brazil) pointed out that the original Spanish of the Argentine proposal had been incorrectly translated into English and French: in Spanish, the phrase "en condiciones equivalentes" had broader implications than the word "équivalentes" in French or the word "equivalents" in English. The translation should read: "... supply, in equivalent conditions, the part or parts requiring replacement".

Mr. PAREJA (Argentina) confirmed the interpretation given by the Brazilian representative to the Spanish text; the formula "in equivalent conditions" related not only to the technical characteristics of the component parts to be supplied, but also to their price, for example.

The PRESIDENT requested the Conference to consider the Argentine proposal in the light of the explanations given by its sponsor.

Mr. GODFREY (United Kingdom) said he understood perfectly well that each country wished to develop its own industry, including the container industry. It would also be extremely useful, from the economic standpoint, if the operator or carrier could be sure of obtaining component parts locally when the country where the container was to be repaired was a long way from the country of origin. There was a danger, however, that the Argentine amendment would not have the desired effect and would not facilitate operations, since, in view of the extremely specialized nature of the parts to be replaced, it was to be expected that the

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*/ Resumed from the 6th meeting.

carrier would ultimately be forced to import the spare part. As the Argentine amendment would merely have the effect of delaying the import procedure, the operator would be tempted to use his containers only in countries which still had simple import procedures and which could easily be persuaded to stock component parts, with the result that the local industries of the countries favouring the Argentine proposal would scarcely be encouraged. The United Kingdom would not support the Argentine amendment.

Mr. DUCUING (France) said he fully shared the view of the United Kingdom representative. There were, however, other objections that could be raised to the Argentine proposal.

Containers would have to undergo safety tests and spare parts would be subject to similar tests. Even where component parts were available in the country where the container was to be repaired, they would not necessarily correspond to the over-all technical design of the container, thus giving rise to an undeniably dangerous situation.

Moreover, the wording of the Argentine amendment raised difficulties of application. Who would decide, and by what criterion, that the country concerned was able to supply parts "in equivalent conditions"? Depending on the policy applied by each country, the answers to those questions would be too restrictive or too flexible; in any event, on each occasion there would be hesitations, since it would be necessary to give some kind of prior authorization for the temporary admission of a specific component part.

Furthermore, the Customs formalities would become extremely complex. He would remind those who advocated the bonded warehouse solution that the component parts placed initially in the warehouse would have to be granted temporary admission once they were destined for a specific container. That would involve, in each case, an authorization plus four Customs declarations. That kind of complication should obviously be avoided.

He could not accept the Argentine proposal.

Mr. LYNEN-VANOTTI (Federal Republic of Germany) and Mr. REYNOLDS (Canada) said they shared the views of the United Kingdom and French representatives; for essentially practical reasons, they could not support the Argentine amendment.

Mr. MANSOUR GUEYE (Senegal) supported the Argentine proposal. The arguments of a practical nature advanced against it were not convincing; provisions similar to those proposed by Argentina were already applied to ships' repairs which, technically, were surely more difficult to carry out than repairs to containers.

Mr. KIRCA (Turkey) said that, in principle, he was entirely in favour of the promotion of national industry, but he was not sure that the Argentine proposal was altogether in keeping with the General Agreement on Tariffs and Trade, since,

for countries which were parties to that Agreement, protectionist measures were legitimate only within the framework of the Agreement. Turkey would support the Argentine proposal, despite the practical difficulties it raised, subject to the addition of a sentence drafted along the following lines: "This provision shall be applied without prejudice to international agreements already in force".

Mr. GUELIN (Switzerland) said he was unable to accept the Argentine proposal, for both practical and psychological reasons. Under articles 6, 7 and 8 of the Customs Convention, the Contracting Parties were to grant temporary admission to very large containers, of considerable bulk, by comparison with which all the component parts needed for their repair would be minimal in quantity and yet - and therein lay the contradiction - would in themselves alone give rise to difficulties from the standpoint of temporary admission. There was also a danger that the provision proposed by Argentina would have the opposite effect of what was intended and would slow down the movement of containers.

Mr. LUZ (Brazil) unreservedly supported the Argentine proposal. He could not see why a provision applied in other industrial sectors could not also be applied in the field of containers. The words "intended for its repair" meant that the Contracting Parties would have spare parts in stock, so that the repairs would not suffer any delay. If the Argentine proposal was rejected, the developed countries would establish stocks of spare parts, and industry in the developing countries would not be able to develop.

The PRESIDENT put the Argentine amendment to the vote.

The result of the vote was 32 in favour and 19 against, with 16 abstentions.

The Argentine amendment (E/CONF.59/L.9) was not adopted, having failed to obtain the required two-thirds majority.

Mr. LUZ (Brazil) said that, in his view, the two-thirds majority had been obtained.

If the Argentine proposal was to be regarded as rejected, however, he wished to propose two amendments to article 10, paragraph 1: first, that the words "shall be granted" should be replaced by the words "may be granted"; and secondly, that the word "intended" should be replaced by the word "needed". He requested that the two amendments should be put to the vote separately.

Mr. OKADA (Japan) said that, if the first Brazilian amendment was accepted, the possibility referred to would be covered by article 14 and there would be no need for paragraph 1 of article 10.

Mr. OGAMY-NYYNDUE (Kenya) supported the two Brazilian amendments. He reminded the Conference that article 14 related to containers, whereas article 10 was concerned solely with parts.

Mr. GUELIN (Switzerland), speaking on a point of order, said that since the Brazilian proposal was further from the text of the draft Convention than the Argentine proposal, it should have been voted on first.

Mr. LOBO (Brazil) said that the Kenyan representative was quite right in stating that article 14 did not relate to the case envisaged in article 10. To replace the words "shall be granted" by the words "may be granted" amounted to allowing the Contracting Parties to apply their own legislation. That amendment was in line with the Argentine proposal and was not further from the text of the draft Convention.

Mr. POPOV (Bulgaria) pointed out that, in the Russian version, paragraph 1 of article 10 already stated that temporary admission "may" be granted. Moreover, if the Customs or administrative authorities had to decide whether the parts were "needed" for the repair or whether they were "intended" for the repair, he wondered just how many other distinctions of that kind would have to be made.

Mr. KALLINGER (Austria) said he fully shared the view of the Japanese representative. If the word "shall" was replaced by the word "may", the whole provision might just as well be deleted. Moreover, it was difficult to accept such important changes without further consideration when they were proposed at the last minute.

Mr. GODFREY (United Kingdom), speaking on the point of order raised by the Swiss representative, asked whether the Brazilian oral amendments were receivable.

The PRESIDENT said that they were. He put to the vote the second Brazilian amendment, namely to replace the words "intended for the repair" by the words "needed for the repair".

The result of the vote was 35 in favour and 27 against, with 5 abstentions.

The second Brazilian oral amendment was not adopted, having failed to obtain the required two-thirds majority.

The PRESIDENT put to the vote the first Brazilian amendment, namely to replace the words "shall be granted" by the words "may be granted".

The result of the vote was 33 in favour and 29 against, with 3 abstentions.

The first Brazilian oral amendment was not adopted, having failed to obtain the required two-thirds majority.

Mr. PAREJA (Argentina) requested that, in order to avoid any possible confusion as to exactly what constituted a two-thirds majority of the Conference, his proposal (E/CONF.59/L.9) should be put to the vote again and that a roll-call vote should be taken.

Mr. KALLINGER (Austria), supported by Mr. POPOV (Bulgaria) and Mr. REYNOLDS (Canada), considered that the proposal just made by the Argentine representative was out of order, the Conference having already taken a decision.

The PRESIDENT, in application of rule 33 of the rules of procedure of the Conference, put to the vote the Argentine proposal that the Conference should vote again on the Argentine amendment, and that the voting should be by roll-call.

Mr. GRAY (United Kingdom) reminded the Conference that, under rule 35 of the rules of procedure, the procedural proposal introduced by Argentina would require a two-thirds majority to be adopted.

The Argentine procedural proposal was put to the vote.

The result of the vote was 30 in favour and 28 against, with 8 abstentions.

The Argentine procedural proposal was not adopted, having failed to obtain the necessary two-thirds majority.

Article 10 was adopted without change.

Article 10 bis** (E/CONF.59/L.8 and Corr.1)

Mr. TUNESCU (Romania), Mr. ARMSTRONG (United States of America), Mr. POLAND (New Zealand), Mr. SAYED KAPANYIS PASHA (Egypt), Mr. IVANOV (Union of Soviet Socialist Republics), Mr. LOPO (Brazil) and Mr. OKADA (Japan) said that they were opposed to draft article 15 bis, (proposed by the States members of the European Communities and by Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, and transmitted to the Conference by a note of the Secretariat (E/CONF.59/L.8 and Corr.1), on the grounds that the case of countries members of a Customs union was already adequately covered by article 14 and that the provisions of the draft article would have the effect of granting unwarranted advantages to the members of a Customs union and, consequently, of weakening the advantages deriving from the Convention for the other Contracting Parties as a whole.

The PRESIDENT put to the vote the proposed article 15 bis.

The result of the vote was 11 in favour and 15 against, with 11 abstentions.

The proposed article 15 bis was not adopted, having failed to obtain the required two-thirds majority.

Mr. van de VEYERING (Netherlands), speaking on behalf of the States members of the European Communities and of Denmark, Ireland and the United Kingdom, said that the delegations of those countries had taken note of the fact that their proposal to insert an article 15 bis relating to Customs unions had not been accepted by the Conference. That situation in no way changed the intention of those States to apply a liberal policy in regard to the movement and use of containers temporarily imported into the single Customs territory. It was clear, however, that those States would have to give some thought, individually and within the framework of the institutions of the European Communities, to the question of the signature and ratification of the Convention and to its procedures.

**/ Continuation, from the 6th meeting, of the discussion concerning article 14.

Article 14 (concluded***)(E/CONF.59/37, part II)

M. LOBO (Brazil) proposed the addition of the following words at the end of the article: "nor shall it prevent the application of unilateral provisions designed to protect the national industry of developing Contracting Parties".

Mr. GODFREY (United Kingdom), Mr. PATERNOSTRO (Argentina), Mr. O'LOUGHLIN (United States of America), Mr. van de METERING (Netherlands), Mr. de ROOVER (Belgium) and Mr. ELLIOTT (Australia) said that they were opposed to that amendment, since it was tantamount to giving certain countries the right to enter a reservation with regard to the Convention as a whole. The new clause, whose extremely vague wording would give rise to difficulties of interpretation and application, would deprive the provisions of the Convention as a whole of any meaning.

Mr. NGANYA-NYYNGQUE (Kenya) suggested that the Brazilian amendment should be reworded to read: "nor shall it prevent the application of relevant provisions designed to protect the national industry of Contracting Parties".

Mr. LOBO (Brazil) accepted the change suggested by the Kenyan representative.

The Brazilian amendment, as modified on the proposal of Kenya, was put to the vote.

The result of the vote was 32 in favour and 20 against, with 11 abstentions.

The amendment was not adopted, having failed to obtain the necessary two-thirds majority.

Mr. MacANGUS (Canada) proposed that, at the end of article 14, the preposition "by" before the words "other States Parties" should be replaced by the preposition "to".

Mr. MASSON (Executive Secretary of the Conference) recalled that that proposal had been considered by the Drafting Committee, which had decided not to amend the proposed text.

Mr. MacANGUS (Canada) said that in that case he thought the Conference should, for the sake of clarity, go back to the proposal made by the Brazilian representative at the 6th meeting, namely, to delete the words "by other States Parties to the Convention" at the end of article 14.

Mr. DUQUESNE (France), speaking as Chairman of the Second Main Committee, said that the Canadian solution would be appropriate; it would in no way change the meaning of the article and would avoid any error of interpretation.

Mr. PAREJA (Argentina) said he was not opposed to the deletion of the phrase at the end of article 14, as proposed by the Canadian representative.

***/ Resumed from the 6th meeting.

Mr. O'LOUGHLIN (United States of America) and Mr. KLEINWEGER (Austria) supported the Canadian amendment to delete the final words of article 14.

Mr. QUARTEY (Ghana), supported by Mr. KILIC (Turkey), requested that, in order to dispel any uncertainty regarding the meaning of the article under consideration, the text should be referred back to the drafting Committee.

By 13 votes to 10, with 26 abstentions, the Conference decided to continue its discussion of the Canadian amendment.

The Canadian amendment to delete the words "by other States Parties to the Convention" at the end of article 14 was rejected.

Article 14, as amended, was adopted.

Report of the Joint Meeting of the First and Second Main Committees (E/CONF.59/C.1 and 2/E/L.7 and Add.1-11, E/CONF.59/AC/Add.1)

Draft resolutions on the coding of containers and on the intermodal carriage of dangerous goods and their identification and marking (E/CONF.59/C.1 and 2/E/L.7/Add.7, annexes I and II)

The PRESIDENT invited the Conference to consider the draft report of the Joint Meeting of the First and Second Main Committees (E/CONF.59/C.1 and 2/E/L.7 and Add.1-11), beginning with the two draft resolutions contained in annexes I and II to the draft report the first on the coding of containers (E/CONF.59/C.1 and 2/E/L.7/Add.7, annex I), and the second on the intermodal carriage of dangerous goods and their identification and marking (ibid., annex II).

Mr. ATHEY (Secretary of the plenary Conference) read out the amendments which the Drafting Committee had decided to make to the text of the two draft resolutions under consideration.

The draft resolution on the coding of containers (E/CONF.59 [C.1 and 2/E/L.7/Add.7, annex I) was adopted. 10/

Mr. OKADA (Japan) proposed that, in the second preambular paragraph of the draft resolution on the intermodal carriage of dangerous goods, the words "the number of" should be replaced by the words "that the various existing", and that a comma should be inserted after the words "inland water transport".

The Japanese amendment was rejected.

10/ See "Final Act of the Conference: note by the Secretariat" (E/CONF.59/AC), para.11, resolution No.6, entitled "Coding of containers".

The draft resolution on the intermodal carriage of dangerous goods and their identification and marking (E/CONF.59/C.1 and E/E/L.7/Add.7, annex III, as amended by the Drafting Committee and by the Japanese representative, was adopted. 20/

The Conference took note of the report of the Joint Meeting of the First and Second Main Committees (E/CONF.59/C.1 and E/E/L.7 and Add.1 - 11), as a whole. 21/

The meeting was suspended at 5.25 p.m. and resumed at 5.5 p.m.

EXCHANGES OF VIEWS ON GENERAL POLICY QUESTIONS RELATING TO:

(a) THE LIABILITY AND DOCUMENTARY REGIME FOR INTERNATIONAL INTERMODAL TRANSPORT;

(b) TRANSPORT POLICY OPTIONS WITH RESPECT TO COST EQUALIZATION IN INTERNATIONAL INTERMODAL TRANSPORT (agenda item 11) (concluded),

and

INTERMODALITING QUESTIONS (agenda item 13) (concluded)

Report of the Third Main Committee (concluded) (E/CONF.59/Add.3)

The PRESIDENT explained that the Third Main Committee had not had time to adopt the last part of its report (E/CONF.59/39/Add.3), and he suggested that the Conference should approve it, paragraph by paragraph, in place of that Committee; the Conference would not, of course, need to consider the draft resolutions (Ibid., annexes I and II), already adopted at the 7th plenary meeting.

It was so decided.

Document E/CONF.59/39/Add.3, paras.143-152

Paragraph 143

Paragraph 143 was approved.

Paragraph 144

After a procedural discussion, in which Mr. JOBIM (Brazil), Mr. IVASHIN (Union of Soviet Socialist Republics), Mr. RAJU (India), Chairman of the Third Main Committee, Mr. SOLHEIM (Norway) and Mr. PANDIKAR (Sri Lanka) took part, the PRESIDENT suggested that the paragraph should be left unchanged.

Paragraph 144 was approved.

20/ Ibid., resolution No. 5, entitled "Intermodal carriage of dangerous goods and their identification and marking".

21/ The final text of the report of the Joint Meeting of the First and Second Main Committees was subsequently issued under the symbols E/CONF.59/41 and Corr.1 and 2.

Paragraphs 144 and 145

Mr. FATHULLAH (Sri Lanka) proposed that the two paragraphs should be redrafted to describe in more detail the consultations that had taken place.

Mr. SOLVIK (Norway), recalling the various phases of the consultations, said that in his view paragraphs 145 and 146 correctly summarized the facts.

Mr. LEÃO (Brazil) requested the representative of Sri Lanka to withdraw his proposal.

Mr. FATHULLAH (Sri Lanka) withdrew his proposal.

Paragraphs 145 and 146 were approved.

Paragraphs 147 and 148

Paragraphs 147 and 148 were approved.

Paragraph 149

Mr. GOLD (United Kingdom) requested that in the English text the words "United Kingdom" before the parentheses in the seventh sentence should be replaced by the word "resolution".

The CHAIRMAN said that the English text would be brought into line with those in the other languages.

Paragraph 149 was approved.

Paragraph 150

Mr. ARTEAGA (Spain) requested that, in the Spanish and English texts, the words "in favour of the resolution" should be inserted after the words "for its adoption by vote".

The Spanish amendment was adopted.

Paragraph 150, as amended, was approved.

Paragraph 151

Mr. TOTH (United States of America) requested that the words "printed art" in the first sentence should be replaced by the word "artist".

The United States amendment was adopted.

Paragraph 151, as amended, was approved.

Paragraph 152

Paragraph 152 was approved.

Paragraphs 143-152 of the report of the Third Main Committee (E/CONF.59/39/Add.3) as a whole, as amended, were approved.

The Conference took note of the report of the Third Main Committee (E/CONF.59/39 and Corr. 1, E/CONF.59/39/Add.1 and Corr.1, E/CONF.59/39/Add.2, E/CONF.59/39/Add.3 and annexes I and II) as a whole. 22/

The meeting rose at 6.15 p.m.

22/ The revised text of the report of the Third Main Committee was subsequently circulated under the symbol E/CONF.59/39/Rev.1.

SUMMARY RECORD OF THE NINTH PLENARY MEETING

held on Friday, 1 December 1972, at 9.10 p.m.

President: Mr. ZOTOV Union of Soviet Socialist Republics

ADOPTION OF AGREEMENTS AND OF THE FINAL ACT OF THE CONFERENCE (agenda item 14) (continued)

Draft Customs Convention on Containers, 1972 (continued)

Report of the Drafting Committee (second report) (E/CONF.59/42/Add.1, E/CONF.59/42)

The PRESIDENT invited the Conference to consider, article by article, the final clauses of the draft Customs Convention on Containers, 1972, as approved by the Drafting Committee and reproduced in its second report (E/CONF.59/42/Add.1, annex I.1).

Final clauses
Article 18 (Signature, ratification, acceptance, approval and accession)

Mr. GRAY (United Kingdom) suggested that, since article VII of the draft Convention for Safe Containers was identical in substance with article 18 of the draft Customs Convention on Containers, any decision on article 18 should also apply to article VII of the draft International Convention for Safe Containers. 23/

Mr. SCHAAL (Netherlands), Chairman of the Joint Meeting of the First and Second Main Committees, supported the United Kingdom representative's proposal. The procedure in question had been followed in the Joint Meeting.

The PRESIDENT said that, if he heard no objections, he would take it that the Conference wished to adopt the suggested procedure.

It was so decided.

Mr. USSACHY (Union of Soviet Socialist Republics) said that article 18, paragraph 1, contained the so-called "Vienna formula", based on article 81 of the 1969 Vienna Convention on the Law of Treaties. That formula was not acceptable to his delegation, since it introduced a discriminatory régime that was out of place in a United Nations instrument. The paragraph should be amended to provide for accession by any State.

Mr. BALASOIU (Romania), Mr. ZACHMANN (German Democratic Republic), Mr. POPOV (Bulgaria), Mr. YASKIN (Ukrainian Soviet Socialist Republic), Mr. KUCSKO (Hungary), Mr. AL-ATHARI (Iraq) and Mr. KENTAR (Algeria) associated themselves with the views of the representative of the Union of Soviet Socialist Republics.

23/ For the discussion on article VII of the draft International Convention for Safe Containers, see the summary record of the 10th plenary meeting.

Mr. GRAY (United Kingdom) said that the Vienna formula had proved its worth over the years. The introduction of all "all States" formula would place the Secretary-General, as the depositary, in the invidious position of having to decide whether or not a certain entity constituted a State. The Conference should be very chary of putting the Secretary-General in such a position and, in fact, the Secretary-General would probably be unwilling to accept it. The Vienna formula, on the other hand, gave him clear instructions concerning which States were entitled to sign the Convention.

Mr. REYNOLDS (Canada), Mr. WOELKER (Federal Republic of Germany) and Mr. BELVIG (Norway) supported the views of the United Kingdom representative.

Mr. WILLIS (United States of America) said that his delegation would strongly oppose any amendment of article 18. That article contained the traditional wording agreed upon at the United Nations Conference on the Law of Treaties, which was sufficiently flexible to permit universal accession. The amendment suggested by the USSR representative had political implications which were a matter for the appropriate political bodies, not for a technical conference.

Mr. LAJCIAK (Czechoslovakia) proposed that the words "Members of the United Nations or members of any of the specialized agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention" should be deleted in article 18, paragraph 1.

Mr. USHAKOV (Union of Soviet Socialist Republics) said that his delegation did not wish to press the matter to a vote. Its views would, of course, be reflected in the summary record and, at a later stage, it would enter a reservation under the appropriate article.

Article 18 was adopted.

Article 19 (Entry into force)

Mr. DOUAY (France) said that, as a result of change in numbering, the first French amendment contained in document E/CONF.59/43 now related to article 19 instead of article 20. That amendment was designed to reintroduce variant (b) in the original text of article 20 of the draft Customs Convention on Containers (E/CONF.59/2 and Corr.1, part II).

According to the text of paragraphs 3 and 4 of article 19 as it appeared in the Drafting Committee's second report, a State acceding to the Convention would be compelled to accept it as amended, although it might well wish to accede but to reject certain amendments. It would furthermore be bound by the Convention as amended, even with respect to States which had not accepted amendments. Such a situation would be contrary to the generally recognized rules of international law whereby a State was bound to another State only to the extent that that other State had agreed to be so bound.

The proposed procedure also had practical drawbacks. In view of the usually lengthy nature of legislative procedures, an amendment might be made to the Convention in the interval between the authorization of ratification by a State's legislative body and the actual deposit of the instrument of ratification. The State concerned might therefore find itself bound under conditions different from those which it had envisaged.

Mr. GRAY (United Kingdom) said that the Convention under discussion was a technical one. The problems raised by the French representative were adequately covered by article 16 on reservations. It would be unreasonable for a provision to be binding on one party to the Convention and not on another.

Mr. OKAWA (Japan) said that paragraphs 3 and 4 of article 19 presented serious difficulties for his Government. Those provisions might mean that a Government would find itself exceeding its powers and infringing the prerogatives of the legislature. His delegation therefore strongly supported the French amendment.

Mr. STEERE (United States of America) said that article 24 of the Vienna Convention on the Law of Treaties stated in effect that a convention should itself prescribe the manner in which it would enter into force. The Conference was therefore free to decide how it wished the Convention to operate and such a decision would not violate any fundamental principles. The practical effect of the French proposal would be to destroy the uniformity of standards which the Convention was designed to achieve and to create numerous difficulties for Customs officials. His delegation fully understood the concern expressed by the Japanese representative about the possibility of a State being bound by an amendment of which it had not been aware, but he thought that articles of the Convention which the Conference had not yet considered were specifically intended to meet such cases.

As for the question of sovereignty, a Government encountering serious difficulties with an amendment could, under articles 3 and 26, express a reservation or, in an extreme case, could denounce the Convention.

Mr. KLAUA (Norway) supported the French proposal. It would be quite inappropriate to force a State to resort to the denunciation procedure simply because of an unacceptable amendment.

Mr. LAFER (Brazil) supported by Mr. CASTILLO NAJERA (Mexico) whole-heartedly endorsed the French amendment.

Mr. WOLFRUM (Federal Republic of Germany) and Mr. SCHAAL (Netherlands) associated themselves with the views expressed by the representatives of the United Kingdom and the United States of America.

The PRESIDENT invited the Conference to vote on the French amendment to paragraph 3 of article 19 (E/CONF.59/A3).

The result of the vote was 26 in favour and 19 against, with 12 abstentions.

The amendment was not adopted, having failed to obtain the required two-thirds majority.

Mr. PONSAY (France) said that, since his delegation's amendments to paragraph 3 and paragraph 4 constituted a single whole, he wished to withdraw the amendment to paragraph 4.

Mr. LOBO (Brazil), supported by Mr. CASTILLO NAJERA (Mexico) and Mr. KHITAB (Algeria), proposed that, in paragraph 1, the words "six months" should be replaced by the words "twelve months" and the words "fifth instrument" by the words "tenth instrument". That would bring the article into line with the draft

Mr. WILLIS (United States of America) said that many of the final clauses had been discussed at great length in the various Committees. His delegation took the view that the compromises reached in the Joint Meeting of the First and Second Main Committees should be accepted. It was consequently opposed to the amendment.

Mr. PAREJA (Argentina) said that the compromise reached in the Joint Meeting had involved a very small number of countries. It was in no way a consensus. He supported the Brazilian amendment.

Mr. CROSSIN (France) suggested a further compromise, whereby the words "six months" would be replaced by the words "nine months", the words "fifth instrument" being retained.

Mr. LOBO (Brazil) said that he was able to accept the first half of the French suggestion, but insisted that "fifth instrument" should be changed to "tenth instrument". He asked for a separate vote on each of those proposals.

The PRESIDENT invited the Conference to vote on the amendment to replace the words "six months" by the words "nine months" in paragraph 1 of article 19.

The result of the vote was 32 in favour and 13 against, with 8 abstentions.

The amendment was adopted, having obtained the required two-thirds majority.

The PRESIDENT invited the Conference to vote on the amendment to replace the words "fifth instrument" by the words "tenth instrument".

The result of the vote was 29 in favour and 18 against, with 6 abstentions.

The amendment was not adopted, having failed to obtain the required two-thirds majority.

Article 19, as amended, was adopted.

Article 20 (Termination of the operation of the Customs Convention on Containers (1956))

Article 20 was adopted.

Article 21 (Procedures for amending the present Convention, including its annexes)

Mr. USHAKOV (Union of Soviet Socialist Republics), referring to paragraph 1 of the article, said that his delegation did not regard the Customs Co-operation Council as the appropriate body to undertake the technical functions provided for in that paragraph. Indeed, it questioned whether the Conference was legally entitled to give the Secretary-General instructions concerning the body to carry out the technical work connected with his functions as the depositary of the Convention. In its opinion, the correct course was to leave the decision to the Secretary-General.

Mr. GUERSEY (United Kingdom) said that his delegation could see no legal objection to the arrangement proposed, which it was convinced was the best solution to the problem.

Mr. [illegible] (German Democratic Republic) and Mr. [illegible] (Romania) said

Mr. WILLIS (United States of America) pointed out that the legal drafting group established by the Joint Meeting of the First and Second Main Committees had devoted a great deal of time to separating the functions of the Secretary-General as the depositary and the functions of the Customs Co-operation Council. The change suggested by the U.S.S.R. representative would thus necessitate modifications to a number of other paragraphs of the final clauses and to certain sections of annex I.

Mr. CHAUMONT (France) said that, from the outset, his delegation had had reservations regarding the reference to the Customs Co-operation Council, which had originally appeared within brackets, since, in its view, it was not purely the interests of Customs authorities which were involved, but also those of the general public. While it had no objection to the Council as such, it believed that it would make for greater independence if the Administrative Committee was serviced by ECE.

Mr. SCHAFER (Federal Republic of Germany) said his delegation was in favour of retaining the existing text.

Mr. KOSTIN (Union of Soviet Socialist Republics) said his delegation endorsed many of the views of the USSR and French delegations. It considered that the Secretary-General of the United Nations should be the depositary and that the secretariat services for the Administrative Committee should be provided by the Customs Co-operation Council. Since the Convention was world-wide in scope, it would be inappropriate for those services to be provided by a regional organization such as ECE.

In reply to a question from the PRESIDENT, Mr. OSHAKOV (Union of Soviet Socialist Republics) said that if the majority of the Conference was in favour of the proposal to substitute ECE for the Customs Co-operation Council, his delegation would have no objection.

In reply to questions from Mr. CHAUMONT (France) and Mr. LOBO (Brazil), Mr. MARESCA (Executive Secretary of the Conference) said that a priori he could see no practical difficulties in that proposal, since the ECE secretariat was already providing similar services for several transport conventions, such as the 1959 Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention)[1], and the Customs Convention on Containers, 1956. He could not say whether the proposal would have any financial implications without making further inquiries.

Mr. LOBO (Brazil) thought that, since an international, not a regional convention was involved, it would be improper for the secretariat services to be provided by ECE.

Mr. KOSTIN (Union of Soviet Socialist Republics) said he would like to have the views of the legal adviser to the Conference on whether there were any legal objections to the substitution of ECE for the Customs Co-operation Council.

Mr. KOZHUSHNER (Legal adviser to the Conference) said he agreed with the Executive Secretary that there were no practical objections to the proposal, since a precedent already existed. He did not believe that there were any legal objections either, because ECE, though a regional body, formed part of the United Nations, which was a universal organization.

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[1] United Nations, Treaty Series, vol. 348 (1960), No. 4996, p. 13, for comments, see ibid., vol. 351 (1960), p. 390.

Mr. GODFREY (United Kingdom) inquired whether there was any basis for the suggestion that legal problems would be involved in entrusting the proposed administrative functions to the Customs Co-operation Council.

Mr. RATON (Legal Adviser to the Conference) said he could see no serious legal difficulties in that arrangement, since there was a clear distinction between the functions to be exercised by the Secretary-General of the United Nations as the depositary and the administrative functions in question, which could be undertaken by any body, even by one outside the United Nations system.

Summing up the discussion, the PRESIDENT said that the proposal before the Conference was to substitute the words "Economic Commission for Europe" for the words "Customs Co-operation Council" in paragraph 1 of article 21 and in the text of any other articles of the Convention in which the latter words appeared. He put that amendment to the vote.

The result of the vote was 10 in favour and 39 against, with 5 abstentions.

The amendment was not adopted, having failed to obtain the required two-thirds majority.

Mr. FRANZEN (Sweden) pointed out that in the English version of the last phrase of paragraph 6 the reference should be to article 18, not to article 19.

Mr. BALASOIU (Romania) drew attention to a discrepancy between the Russian version of paragraph 4 of the article and the versions in the other languages. In the Russian version, the word "Contracting" appeared before the word "Party" in the phrase "if no Party expressed an objection".

After an exchange of views in which Mr. KIRCA (Turkey), Mr. INGRAM (United Kingdom), Mr. WILLIS (United States of America), Mr. KEEN (New Zealand), Mr. BALASOIU (Romania) and Mr. PAPEJA (Argentina) took part, the PRESIDENT suggested that the word "Contracting" should be inserted before the word "Party" in the versions in all languages.

It was so agreed.

Article 21, as amended, was adopted.

Article 22 (Special procedure for amending annexes 1, 4, 5 and 6)

Mr. GROSSIN (France), introducing his delegation's amendment to paragraph 6 of the article (E/CONF.59/43), pointed out that, as a result of a change in the numbering of the articles, it should be shown as relating to paragraph 22, not to paragraph 23.

The amendment was to insert the words "which did not object to the amendment" after the words "for all the Contracting Parties" in the first sentence of paragraph 6 of article 22. Its purpose was to apply a fundamental principle of the law of treaties, namely, that a State could not be bound by an amendment which it had not accepted. The objection would no doubt be made that, in a technical convention such as the one under consideration, the overriding consideration should be uniformity of rules. His delegation did not, however, consider that a very serious situation would be created

if there were a few differences in the rules on certain technical points. Such a situation, though not ideal, would be less unsatisfactory than a situation in which Contracting Parties were compelled to withdraw from the Convention because they did not wish to be bound by an amendment. In the present instance, the principle of the sovereignty of States had to take precedence over the principle of uniformity. If an amendment was reasonable, it would be accepted by all parties to the Convention and no problem would in fact arise. A State which originally objected to an amendment might also later change its mind. His delegation therefore pressed for the maintenance of the principle that a State which objected to an amendment should not be bound by it.

Mr. LOBO (Brazil) said that his delegation fully supported the French amendment, since it entirely agreed that a country could not be bound by an amendment which its legislative body had not seen fit to approve. In particular, it was important that the developing countries should see to it that they were not bound by amendments which they did not believe to be in their best interest.

Mr. GODFREY (United Kingdom) said that his delegation objected to a situation in which containers not meeting the full requirements of the Convention would have to be accepted by all parties. In his view, the French amendment would result in inequality of treatment between countries which accepted amendments and those which did not.

Mr. LAJCIAK (Czechoslovakia) said that his delegation strongly supported the French amendment.

Mr. PAYEN (Argentina) said that his delegation also supported the French amendment, because it believed it would contribute to a universal and effective convention.

Mr. SELVIG (Norway) said that his delegation could not support the French amendment. In its view, it was essential that there should be uniformity within the area in which the Convention applied, since serious practical difficulties would otherwise arise.

Mr. CUMBERBATCH (Trinidad and Tobago) said that his delegation was in favour of the French amendment. There were already a number of highly technical conventions, such as the Convention on International Civil Aviation, signed at Chicago in 1944,[25] the parties to which were not bound by amendments to the technical annexes which they did not wish to accept. He saw no reason why a similar arrangement could not be adopted in the present case.

The PRESIDENT put to the vote the French amendment to paragraph 6 of article 22 (E/CONF.39/43).

The result of the vote was 36 votes in favour and 17 against, with 3 abstentions.

The amendment was adopted, having obtained the required two-thirds majority.

25/ Ibid., vol.15 (1948), No.102, p.295.

Mr. SONDAAL (Netherlands) spoke in explanation of his delegation's vote against the French representative's proposal. That representative had referred to the sovereignty of States. In his delegation's view, the exercise of sovereignty meant that a State was free to dispose of its power, in other words, to cede part of its sovereignty. Such an attitude was vital to international co-operation.

Mr. KEYS LEE (Canada) said that his delegation wished to propose an additional amendment to paragraph 6 of article 22, which was to insert, after the new words "which did not object to the amendment," the words "except that such an objection shall not be binding as to acceptance of containers to which the present Convention applies by other Contracting Parties following a period of five years from its notification".

The purpose of that amendment was to preserve the sovereign rights of Contracting Parties which, under the French amendment, had objected to an amendment and therefore did not wish to have the new standard applied to their containers, as well as the sovereign rights of Contracting Parties which had decided that the standards contained in the amendment should apply to all containers. The effect of the amendment would be that, five years after a Contracting Party had objected to an amendment, the Contracting Parties which had accepted the amendment would have the discretion to accept or refuse containers which did not meet the technical standard imposed by the amendment.

Mr. WILLIS (United States of America) said that his delegation did not understand the purpose of the words "following a period of five years from its notification". It was of the opinion that the Canadian amendment would be more effective if those words were deleted. If the Canadian delegation was willing to delete those words, his delegation would be able to accept the amendment.

Mr. MacANGUS (Canada) said that the five-year period was intended as a "cushioning" period during which a Contracting Party which had objected to an amendment could reconsider its objection. However, if the Conference wished to delete the words referred to by the United States delegation, his delegation would not object.

The PRESIDENT said it seemed to him that the point of the Canadian amendment lay precisely in the five-year period.

Mr. DOUAY (France) said that, as he understood the Canadian amendment, if State A had notified an objection to an amendment and State B accepted it, State A would not be bound in respect of State B and vice versa. Nevertheless, if State A presented a container to State B, the latter would not be bound to accept it. Thus, although State A theoretically had the right to object to an amendment, its objection would have no practical effect. In his delegation's opinion, the purpose of the Canadian amendment was in fact to reverse the decision taken in adopting the French amendment. Although the Canadian amendment was ostensibly intended to preserve the sovereignty of States, in fact, only an empty principle was being preserved, because the containers of a State which had objected to an amendment would not be accepted by a State which had accepted the amendment. That was the opposite result of what had been sought in adopting the French amendment. The Canadian amendment was therefore totally unacceptable to his delegation.

Mr. KIRCA (Turkey) said that his delegation fully supported the view of the French delegation. It was, moreover, of the opinion that the Canadian amendment would always enable technologically advanced countries to refuse containers from less advanced countries if those containers did not meet the standards applied by the technologically advanced countries.

Replying to a question from the PRESIDENT, Mr. HENDERSON (Canada) said that the representative of France had correctly understood the idea underlying his amendment, namely, that a State which objected to an amendment would wish to keep its containers at a lower safety level than those of another State which had accepted the amendment. At the end of the five-year period proposed by his delegation, the latter State would decide to refuse sub-standard containers coming from States objecting to the amendment. Additionally, a State which objected to an amendment might need time to bring its containers up to the new standard, but the proposed five-year period would be sufficient for that purpose.

Mr. SOUTO (Brazil) considered that the adoption of the Canadian amendment would cause many legal problems. In that connexion, the Turkish representative had raised a point which was of the greatest importance for the developing countries, which must be careful to avoid accepting decisions that were harmful to their interests. The developed countries were constantly revising their technological standards and thus hampering the economic development of the developing countries in many fields. For that reason, his delegation had been in favour of the French amendment and was opposed to the Canadian amendment.

Mr. KING (New Zealand) said his delegation was concerned by the lack of agreement in the Conference with regard to the uniformity of technical standards. It could not accept a five-year "conditioning" period for containers which did not meet improved technical standards.

Mr. SCHELTEMA (Netherlands), Chairman of the Joint Meeting of the First and Second Main Committees, said that the Canadian amendment had not been discussed in the Joint Meeting in connexion with the draft Customs Convention on Containers, but only in connexion with the draft International Convention for Safe Containers. At that time, only part of the amendment had been accepted, the words referring to the five-year period having been omitted.

The PRESIDENT invited the Conference to vote on the Canadian amendment.

The result of the vote was 16 in favour and 37 against, with 3 abstentions.

The Canadian amendment was not adopted, having failed to obtain the required two-thirds majority.

Mr. WILSON (United States of America) said that his delegation was considering the possibility of submitting an amendment to replace the words "one-fifth or five of the Contracting Parties" in paragraph 5 of article 32 by the words "a single Contracting Party". His delegation was of the opinion that the Convention would not function satisfactorily except on a uniform basis and, since it had not been possible to reach agreement on a flexible procedure for amendment, it believed that the best solution would be to adopt a tacit amendment procedure with a unanimity rule, as in article 31. Since his delegation was not yet prepared to submit its amendment, it

The PRESIDENT suggested that the Conference should defer further consideration of article 22, as requested by the United States representative.

It was so decided.

Article 23 (Denunciation)

Mr. WILLIS (United States of America) said that paragraph 2 of article 23 had become superfluous as a result of the adoption of the French amendment to paragraph 6 of article 22. Paragraph 2 of article 23 had originally been included in the draft Convention in order to meet the concern expressed regarding the tacit amendment procedure and the possibility of a country being bound by an amendment to which it had objected. It was, however, no longer necessary and his delegation suggested that it should be deleted.

Mr. PIRC (Turkey) said that, since further consideration of article 22 had been deferred, consideration of article 23 should also be deferred.

Mr. DOBROVOV (Union of Soviet Socialist Republics) said that his delegation was of the opinion that paragraph 2 of article 23 should be deleted.

Mr. PAREJA (Argentina) said that his delegation believed that that paragraph should be retained, since it related to article 22 dealing with the special procedure for amending annexes 1, 4, 5 and 6, and to article 24 dealing with procedure for amending the Convention, including its annexes.

Mr. DUBUY (France) said that his delegation fully agreed with the Russian delegation that a decision could not be taken on paragraph 2 of article 23 until article 22 had been adopted as a whole.

The PRESIDENT suggested that consideration of article 23 should be deferred.

It was so decided.

Article 24 (Termination)

Article 24 was adopted.

Article 25 (Settlement of disputes) and article 26 (Reservations)

Mr. KUNCA (Turkey) said that he wished to know whether the 1956 Customs Convention on Containers contained an article on the lines of article 25.

Mr. BOSCHAL (Netherlands) replied that article 17 of the 1956 Convention related to disputes between Contracting Parties. Under that article, any dispute not settled by negotiation would be settled by arbitration if one of the Contracting Parties so requested.

Mr. PAREJA (Argentina) said that his delegation wished to propose an amendment to the first sentence of paragraph 1 of article 26. The figures "1-17" should be deleted after the word "article", so that the first part of the sentence would read "Reservations to the present Convention shall be permitted, excepting those

Mr. LUZ (Brazil) said that his delegation fully supported the amendment proposed by the delegation of Argentina. As it stood, the Convention seemed designed to obtain the lowest possible number of signatures. Many issues had, however, been decided by simple vote and no reservations were being allowed on many articles. Perhaps that was why the signature of only five countries was needed for the entry into force of the Convention. He was of the opinion that countries should be allowed to sign the Convention with reservations.

Mr. BERGSTEN (Sweden) said that, in his delegation's view, since the purpose of the Convention was to ensure uniformity of technical standards and rules, it was necessary to allow very few possibilities for reservations. If the Convention was adopted and the question of reservations arose, all countries would have an equal influence on the rejection or acceptance of such reservations.

Mr. ZOU (Imperial Iran) said his delegation considered that the effectiveness of the Convention depended on its universality, which would be impaired unless the article on reservations was sufficiently flexible. At present, article 37 was too rigid, and his delegation therefore supported the proposal of the Argentine delegation to delete its figures "1-17". It hoped that the Conference would see the wisdom of allowing States to enter reservations on articles which were unacceptable to them.

The PRESIDENT suggested that the discussion of the Argentine amendment should be closed and the amendment put to the vote.

Mr. LUZ (Brazil), speaking on a point of order, said that he did not think the discussion should be closed because the Argentine amendment was of fundamental importance and it would be desirable to hear the views of other delegations on that subject.

Mr. MIRAS (United States of America) said that, under rule 33 (b) of the rules of procedure of the Conference, he wished to move the adjournment of the meeting, because important developments had been taken which had changed the significance of article 37 and because the Argentine proposal also related to a very important issue which required careful consideration.

After a procedural discussion, in which Mr. LUZ (Brazil), Mr. MARTIN (Argentina), Mr. GRAY (United Kingdom) and Mr. RIBEA (Norway) took part, the PRESIDENT put the United States motion to the vote.

The United States motion for adjournment was adopted by 17 votes to 7, with 4 abstentions.

The meeting rose at 12.5 a.m. on 3 December 1971

SUMMARY RECORD OF THE TENTH PLENARY MEETING

held on Saturday, 2 December 1972, at 12 noon

President: Mr. ZOTOV Union of Soviet Socialist Republics

ADOPTION OF AGREEMENTS AND OF THE FINAL ACT OF THE CONFERENCE (agenda item 14) (continued)

Draft Customs Convention on Containers, 1972 (concluded)

Report of the Drafting Committee (second report) (concluded) (E/CONF.59/42/Add.1, E/CONF.59/43)

Final clauses (concluded)

The PRESIDENT invited the Conference to resume its consideration of the final clauses of the draft Customs Convention on Containers, contained in annex I, i, to the second report of the Drafting Committee (E/CONF.59/42/Add.1).

Article 22 (Special procedure for amending annexes 1, 4, 5 and 6) (concluded)

Article 22, as amended, was adopted.

Article 23 (Denunciation) (concluded)

The PRESIDENT said that, if there were no objections, he took it that the Conference agreed to the deletion of paragraph 2.

It was so decided.

Article 23, as amended, was adopted.

Article 25 (Settlement of disputes) (concluded)

Article 25 was adopted. 26/

Article 26 (Reservations) (concluded)

Mr. FARFJA (Argentina) said that his delegation had proposed an amendment to the first sentence of paragraph 1 of article 26 at the 9th meeting, but informal discussions had led to a compromise solution. Consequently, the Argentine delegation withdrew its amendment.

Mr. LONGE (Nigeria) recalled that, at the 9th meeting, his delegation had recommended a flexible text for article 26, which might cause some difficulty for developing countries because of the reference to articles 10 and 11. Now that the Argentine delegation had withdrawn its amendment, he wished to submit as a compromise

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26/ For the amendment subsequently made to paragraph 1 of article 25, see the summary record of the 11th plenary meeting.

the following proposal: (a) the procedure provided for in article 9, 27/ paragraph 1, would be mandatory and not optional, on the understanding that the reservation clause would apply to it; that would mean replacing the words "may permit" in that paragraph by the words "shall permit"; (b) no reference would be made to articles 9, 10 and 11 in article 26, paragraph 1, which would involve replacing the words "the provisions of articles 1-17" in that paragraph by the words "the provisions of articles 1-8, 12-17"; and (c) no change would be made in article XIV on reservations in the Safety Convention. 28/

The PRESIDENT said that, unless he heard any objection, he took it that the Conference adopted the three-part Nigerian proposal in its entirety.

The Nigerian amendments to articles 9 and 26 were adopted.

Article 26, as amended, was adopted.

Mr. KIRCA (Turkey) said that in his delegation's view article 26, in the form just adopted, did not exclude the possibility of entering reservations on the Convention as a whole, when such reservations were linked to the application of provisions relating to public policy (ordre public) in an existing international convention.

Article 27 (Notification) and article 28 (Authentic texts)

Articles 27 and 28 were adopted.

Report of the Second Main Committee (concluded*) (E/CONF.59/37 and Corr.1-4, E/CONF.59/42, annex I, i; E/CONF.59/42/Add.1, annex I, ii)

Part II: and report of the Drafting Committee (E/CONF.59/42, annex I, ii) (concluded*)

Annexes to the draft Customs Convention on Containers (concluded**)

Annex 7 (Composition and rules of procedure of the Administrative Committee) (E/CONF.59/37, part II, E/CONF.59/42/Add.1, annex I, ii)

Annex 7 was adopted.

Protocol of Signature

The Protocol of Signature was adopted.

The Conference took note of the report of the Second Main Committee (E/CONF.59/37 and Corr.1-4 29/), as a whole.

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* Resumed from the 8th plenary meeting.

** Resumed from the 7th plenary meeting.

27/ Article 9 of the Customs Convention on Containers had been adopted at the 6th plenary meeting.

28/ For the adoption of article XIV of the International Convention for Safe Containers, see the summary record of the 11th plenary meeting.

29/ Document E/CONF.59/37/Corr.5 was circulated subsequently.

Adoption of the Customs Convention on Containers, 1972

The draft Customs Convention on Containers, 1972, as amended, was adopted. 30/

Report of the Joint Meeting of the First and Second Main Committees (concluded*) (E/CONF.59/41 and Corr.1 and 2)

Mr. SONDAAL (Netherlands), Chairman of the Joint Meeting of the First and Second Main Committees, said that the Joint Meeting had considered in their order all the draft final clauses in the two Conventions which served identical purposes. He expressed his appreciation of the assistance given by the legal working group, which had settled many problems and thus enabled the two Committees to reach agreement.

Replying to a question by Mr. SHAKHOVKIN (Union of Soviet Socialist Republics), Mr. SONDAAL (Netherlands), Chairman of the Joint Meeting of the First and Second Main Committees, said that in article II, paragraph 6, of the draft International Convention for Safe Containers the Joint Meeting had deleted the words in brackets, in accordance with the wishes of the Soviet delegation (E/CONF.59/41, para. 98).

In reply to a question by Mr. SHAKHOVKIN (Union of Soviet Socialist Republics), Mr. MERANI (Secretary of the plenary Conference) explained that, after the draft final clauses of the two Conventions had been considered by the Joint Meeting of the First and Second Main Committees, they had been examined by the Drafting Committee, which had made amendments to them. The text before the Conference was the text as revised by the Drafting Committee.

Draft International Convention for Safe Containers (continued**)

Report of the Drafting Committee (E/CONF.59/42, annex I, II) (concluded**)

Article II (Definitions) (concluded**)

Article II was adopted.

Report of the Drafting Committee (third report) (E/CONF.59/42/Add.2, annex I)

Final clauses

Mr. BUSHEY (United States of America), speaking as Chairman of the First Main Committee, said that he was satisfied with the decisions taken by the Conference during the current meeting, particularly in regard to reservations, and he was glad that article XIV (Reservations) had been approved by the Joint Meeting without amendment (see E/CONF.59/41, paras. 85-87), since a technical committee could not express reservations on provisions which were not of a technical nature.

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* Resumed from the 9th plenary meeting.

** Resumed from the 7th plenary meeting.

30/ The text of the Convention as adopted was subsequently circulated under the symbol E/CONF.59/46. For the amendments subsequently made to articles 9 and 15, see the summary record of the 11th plenary meeting.

Article VII (Signature, ratification, acceptance, approval and accession)

The PRESIDENT recalled that the Conference had decided at its 9th plenary meeting, in adopting article 18 of the draft Customs Convention on Containers, that any decision taken on that article should also apply to article VII of the draft International Convention for Safe Containers.

Mr. TONCIC (Yugoslavia) said that the new article VII of the Safety Convention contained the so-called "Vienna formula". Yugoslavia, which had always favoured the internationalization of all relations between States, could not accept that formula, and would have preferred the simple wording "to signature by all States". As the debate had been closed before the Yugoslav delegation had had an opportunity to speak, he requested that the Yugoslav position should be reflected in the summary record of the meeting.

The PRESIDENT noted Yugoslavia's reservations concerning article VII.

Article VII was adopted.

Article VIII (Entry into force)

Article VIII was adopted.

Article IX (Procedure for amending any part or parts of the Convention, including its annexes)

Mr. PAREJA (Argentina) said that there appeared to be an omission in the second sentence of paragraph 2 (a); he thought that the words "and to vote", which were contained in paragraph 2 of article X (Amendments to the annexes), should be added after the words "Contracting Parties shall have been invited to participate". The problem of the right to vote had been discussed by other organs of the Conference, which had taken an affirmative decision.

Mr. GROSSIN (France) wondered what purpose was served by adopting, for the International Convention for Safe Containers, an amendment procedure which was so complicated and so different from that which had been adopted for the Customs Convention on Containers. The Administrative Committee under the Safety Convention should, it seemed, be separate from IMCO itself. The Administrative Committee consisted solely of Contracting Parties; but under the proposed procedure the Administrative Committee would, as it were, be watched over by an agency whose membership included some States which were non-parties to the Convention. As a matter of principle, it was wrong not to try to harmonize the two amendment procedures. It would be quite sufficient to adopt for the Safety Convention, mutatis mutandis, the procedure already adopted for the Customs Convention.

Mr. LONGE (Nigeria) supported the Argentine proposal. The Nigerian delegation thought that, when it had been suggested that the words "and vote" should be added in the last sentence of paragraph 2 (a) of article IX, it was understood that those words should also be inserted in the second sentence of paragraph 2 (a).

Mr. SONDAAL (Netherlands), speaking as Chairman of the Joint Meeting of the First and Second Main Committees, said that the text contained in documents E/CONF.59/41 and E/CONF.59/42/Add.2 was correct and did not contain any errors. The Joint Meeting had decided that it would be sufficient if Contracting Parties which were not members

of IMCO were invited to participate in its work only when IMCO was considering a proposed amendment. Those Contracting Parties would be entitled to vote in the Assembly, but not in the Maritime Safety Committee. It had been decided at the Joint Meeting not to harmonize the amendment procedures for the two Conventions.

Mr. STANLEY (United Kingdom) explained that the Joint Meeting had wanted to ensure that all parties to the International Convention for Safe Containers were duly represented and that no amendment could enter into force without the agreement of two thirds of the Contracting Parties present and voting, either in the Assembly, where the procedure to be followed would be that provided for in article IX, or in the Maritime Safety Committee of the Organization, where the procedure would be that prescribed in article X. The text prepared by the Joint Meeting was ideally suited to the purposes of the Safety Convention.

Mr. QUARTEY (Ghana) pointed out that under the procedure provided for in article IX, an amendment had to be submitted to the Maritime Safety Committee of IMCO at least six months prior to its consideration by the IMCO Assembly, which only met once every two years: three years might therefore elapse before the amendment entered into force. Such a delay was not likely to make the Convention effective.

Mr. LOBO (Brazil) supported the Argentine amendment. He observed that the members of the Maritime Safety Committee of IMCO were elected and that some Contracting Parties would consequently be excluded from it.

Mr. [illegible] (France) recalled that the decision not to harmonize the amendment procedures had been adopted by 15 votes to 14, with 19 abstentions. The French delegation therefore felt entitled to raise the problem in the plenary. If the Conference adopted the proposed procedure - i.e., without harmonization - the French delegation would support the Argentine amendment to the effect that Contracting Parties invited to participate in the work of the Maritime Safety Committee should have the right to vote. In order to avoid a situation in which the administration of the International Convention for Safe Containers would be subject to control by a supervisory body - namely, that Committee.

Mr. [illegible] (Canada), speaking on a point of order, said that the difficulty probably arose from the fact that the title of article IX was wrongly worded and should read "Procedure for amending any part or parts of the Convention". The Canadian delegation therefore proposed the deletion of the words "including its annexes".

Mr. [illegible] (Argentina) said that his delegation's proposal to add the words "and to vote" after the words "to participate" in the second sentence of paragraph 2 (a) of article IX, was intended solely to rectify an omission. In article X, it was stated that all Contracting Parties were to be invited "to participate and to vote" in the discussions of the Maritime Safety Committee when it was considering an amendment to the annexes, and the Argentine delegation merely wished to harmonize articles IX and X. The Canadian amendment, and also the French delegation's attitude concerning harmonization, were quite different matters.

Mr. WILLIS (United States of America) said that he was not opposed to the deletion of the words "including its annexes" in the title of article IX, but, in his view, that amendment would not in any way affect the substance. The annexes could always be amended in accordance with the procedure provided for in article IX, because they were an integral part of the Convention. Furthermore, additional procedures were

laid down in article X, which applied exclusively to amendments to the annexes. The United States delegation supported the Argentine proposal, but it opposed the French proposal to harmonize the relevant provisions in the two Conventions.

Mr. LONGE (Nigeria) said that he too had no objection to the deletion of the words "including its annexes" in the title of article IX. However, he still maintained that the words "and to vote" should be inserted in the second sentence of paragraph 2 (a), as proposed by the Argentine delegation.

Mr. SCHAAL (Netherlands) said that the Canadian proposal might involve some difficulties. An amendment to an annex could be adopted under the accelerated procedure provided for in article X. But, if such an amendment was directly related to a provision in the Convention, the amendment to that provision could not enter into force until long after the amendment to the annex. It was to avoid that type of situation that the words "including its annexes" had been included in the title of article IX.

Mr. WILLIS (United States of America) thought that the Canadian amendment was a drafting amendment only. Under article IX, any part of the Convention, including its annexes, could be amended in accordance with the procedure laid down in that article. But, for amendments which related only to the annexes, a completely different procedure was provided for in article X. In other words, article X was entirely independent of article IX; they were not intended to be applied one after the other.

Mr. QUARTEY (Ghana) wondered what would happen if an amendment to an annex affected an article in the Convention. In that case, surely, the procedure provided for in article IX should be applied, and consequently the title of the article should not be changed.

The PRESIDENT declared that the discussion on that point was closed, and he put to the vote the Canadian amendment to delete the words "including its annexes" from the title of article IX of the final clauses of the draft International Convention for Safe Containers (E/CONF.59/42/Add.2, annex I).

The result of the vote was 27 in favour and 9 against, with 5 abstentions.

The Canadian amendment was adopted, having obtained the required two-thirds majority.

The meeting rose at 1.10 p.m.

SUMMARY RECORD OF THE ELEVENTH (CLOSING) PLENARY MEETING

held on Saturday, 2 December 1972, at 2.45 p.m.

President: Mr. ZOTOV Union of Soviet Socialist Republics

ADOPTION OF AGREEMENTS AND OF THE FINAL ACT OF THE CONFERENCE (agenda item 14) (concluded)

Customs Convention on Containers, 1972

Article 9

Mr. MASSON (Executive Secretary of the Conference), referring to article 5 of the Customs Convention on Containers, said that, since the Conference had decided (10th plenary meeting) to modify the opening sentence of paragraph 1 of that article to read "The Contracting Parties shall permit ...", the words "if necessary" could be deleted from paragraph 2 of that article.

The PRESIDENT said that, in the absence of any objection, he would assume that that change was acceptable to the Conference.

It was so agreed.

Draft International Convention on Safe Containers (concluded)

Report of the Drafting Committee (third report) (concluded) (E/CONF.59/42/Add.2, annex 1)

Final clauses (concluded)

The PRESIDENT invited the Conference to resume its consideration of the final clauses of the draft International Convention for Safe Containers (E/CONF.59/42/Add.2, annex 1).

Article IX (Procedure for amending any text or parts of the Convention) (concluded)

The PRESIDENT drew attention to the proposal made by Argentina at the 10th meeting that the words "and to vote" should be inserted between the words "participate" and the words "such amendment" in the second sentence of paragraph 2 (a) of the article.

Mr. SONDAAL (Netherlands) said that his delegation could accept that amendment.

The Argentine amendment was adopted.

Article IX, as amended, was adopted.

Article X (Amendments to the annexes)

The PRESIDENT suggested that the title should be amended to read "Special procedure for amending the annexes".

Mr. SONDAAL (Netherlands) and Mr. STANDEN (United Kingdom) endorsed the President's suggestion.

Mr. PAIEJA (Argentina) said that the reason for the suggested amendment to the title of article X, which was based on the title of article 22 of the Customs Convention, was the fact that the words "including its annexes" had been deleted from the title of article IX. Logically, therefore, the words "including its annexes" should also be deleted from article 21 of the Customs Convention.

Mr. LOBO (Brazil), supported by Mr. CONFREY (United Kingdom), pointed out that the special procedure provided for in article 22 of the Customs Convention applied only to annexes 1, 4, 5 and 6 of that Convention, whereas the procedure provided for in article X of the draft International Convention for Safe Containers applied to all the annexes.

Mr. PAIEJA (Argentina) replied that the deletion of the words "including its annexes" from article 21 of the Customs Convention would not affect the scope of its application, since it was stated in article 17 of that Convention that the annexes formed an integral part of the Convention.

The PRESIDENT pointed out that the Customs Convention had already been adopted. It was not essential that the text of the two Conventions should be identical.

The amendment to the title of article X suggested by the President was adopted.

Mr. GROSSIN (France) proposed the deletion, in paragraph 4 of article X, of the second half of the sentence, starting with the words "an objection made ..." in order to bring the text into line with that of article 22, paragraph 6, of the Customs Convention.

Mr. LOBO (Brazil) supported that amendment.

Mr. SONDAAL (Netherlands) requested a vote on the French amendment.

Mr. MacANGUS (Canada) endorsed that request. It was essential that safety standards should be maintained throughout the international system.

Mr. LUSK (United States of America) said that no nation should be forced to accept containers which it regarded as sub-standard and unsafe. The text of paragraph 4 should therefore remain unaltered.

The PRESIDENT put the French amendment to the vote.

The result of the vote was 28 in favour and 16 against, with 3 abstentions.

The amendment was not adopted, having failed to obtain the required two-thirds majority.

Article X, as amended, was adopted.

Article XI (Denunciation)

Mr. TSYGANOV (Union of Soviet Socialist Republics) proposed the deletion of paragraph 2. He recalled that a similar provision in article 23, paragraph 2, of the Customs Convention had been deleted.

Mr. WILLIS (United States of America) asked whether the Chairman of the Joint Meeting of the First and Second Main Committees could explain the reason for the inclusion of paragraph 2.

Mr. SONDAAL (Netherlands), Chairman of the Joint Meeting of the First and Second Main Committees, said that the paragraph in question had been included in order to enable States which objected to an amendment to denounce the Convention, since it was stated in article X, paragraph 4, that an objection made by a Contracting Party would not be binding on other Contracting Parties as to acceptance of containers to which the Convention applied.

Mr. LOBO (Brazil), supported by Mr. GROSSIN (France), Mr. KIRCA (Turkey) and Mr. SONDAAL (Netherlands), pointed out that the corresponding provision in the Customs Convention had been deleted as a result of the amendment of article 22, paragraph 6. In the case under consideration, however, a similar amendment to article X, paragraph 4, had just failed to obtain the necessary majority. Article XI, paragraph 2, should therefore be maintained.

The PRESIDENT invited the Conference to vote on the amendment proposed by the USSR.

The result of the vote was 12 votes in favour and 24 against, with 6 abstentions.

The amendment was not adopted, having failed to obtain the required two-thirds majority.

Article XI was adopted.

Article XII (Termination)

Article XII was adopted.

Article XIII (Settlement of disputes)

Mr. KIRCA (Turkey) proposed that the first part of the second sentence of article XIII, paragraph 1, should be recorded as follows: "If three months after receipt of a request one of the parties shall have failed to appoint an arbitrator or if the arbitrators shall have failed to elect the Chairman ...".

Mr. WILLIS (United States of America), Mr. POPOV (Bulgaria) and Mr. SONDAAL (Netherlands) supported that proposal.

The Turkish amendment was adopted.

Mr. KIRCA (Turkey) proposed that a similar amendment should be made in article 25, paragraph 1, of the Customs Convention. 31/

The Turkish amendment to article 36 of the Customs Convention on Containers (E/CONF.59/27/Add.1, annex I, i) was adopted.

Article XIII, as amended, was adopted.

Article XIV (Reservations), article XV (Notification) and article XVI (Authentic texts)

Articles XIV - XVI were adopted.

The Conference took note of the report of the Drafting Committee (E/CONF.59/41 and Add.1 and 2), as a whole.

Adoption of the International Convention for Safe Containers

The draft International Convention for Safe Containers, 1972, as a whole, as amended, was adopted. 32/

Draft resolution on the International Convention for Safe Containers, 1972 (E/CONF.59/L.10)

The PRESIDENT invited the Conference to consider the draft resolution on the International Convention for Safe Containers, 1972 (E/CONF.59/L.10), submitted by Brazil, Greece, Ghana, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

The draft resolution on the International Convention for Safe Containers, 1972 (E/CONF.59/L.10) was adopted, with a minor drafting change. 33/

The meeting was suspended at 5.5 p.m. and resumed at 5.10 p.m.

31/ Article 25 of the Customs Convention had been adopted at the 10th plenary meeting.

32/ The text of the Convention as adopted was subsequently circulated under the symbol E/CONF.59/45.

33/ See "Final Act of the Conference: note by the Secretariat" (E/CONF.59/44), para. 11, resolution No.8, entitled "International Convention for Safe Containers, 1972".

SIGNATURE OF THE FINAL ACT OF THE CONFERENCE AND OF THE AGREEMENTS (agenda item 15)

The PRESIDENT declared that the Final Act of the Conference (E/CONF.59/44) was now open for signature and invited representatives to sign it.

The Final Act of the Conference was then signed.

CLOSURE OF THE CONFERENCE

The PRESIDENT congratulated the Conference on the successful completion of its work. The Conference had had to deal with a whole series of very difficult economic and legal questions and it was only thanks to the knowledge, hard work and spirit of co-operation of all concerned that it had been possible to achieve positive results. An important contribution had thus been made to the development of container transport and to progress in international communications in general. He paid a tribute to all members of the Conference secretariat, and in particular the Executive Secretary of the Conference, and to the Chairmen who had so ably directed the work of the Committees. He wished all participants in the Conference success in the further development of transport in their countries as an aid to increasing mutual understanding.

Mr. CLIFTON (United Kingdom) said he was speaking on behalf of many delegations in expressing his appreciation of the competence and skill with which the President had handled the highly complex technical and legal questions before the Conference. The fact that the Conference had now reached a satisfactory conclusion was in large measure due to the personal qualities of the President.

Mr. LOBO (Brazil), speaking on behalf of the developing countries, paid a tribute to the President, whose sure guidance had greatly contributed to the successful outcome of the Conference. He also expressed his appreciation of the part played by the Executive Secretary and all members of the secretariat of the Conference in ensuring the success of the Conference.

He proposed that the Conference should move a formal vote of thanks to the President.

The motion was adopted by acclamation.

Mr. POPOV (Bulgaria), speaking on behalf of the socialist countries, paid a tribute to the outstanding personal qualities of the President and congratulated him on the successful conclusion of the Conference. He also thanked the Executive Secretary and all the secretariat staff for the way in which they had carried out their very difficult task. The socialist countries were gratified that an invitation had been extended to the German Democratic Republic to participate in the Conference, and hoped that the work done would help to promote the well-being of mankind.

Mr. LUSK (United States of America) said he wished to express his delegation's appreciation of the adoption of the two Conventions and to applaud the great efforts and spirit of understanding that had helped the Conference to come to such a successful conclusion. He wished to thank the participants for electing a member of the United States delegation as the Chairman of the First Main Committee and to pay a special tribute to the outstanding leadership of the President. The United States delegation would be proud and happy to participate in another international conference under his leadership.

Mr. SAVELIEV (Secretary, Maritime Safety Committee, Inter-Governmental Maritime Consultative Organization) said that the Secretary-General of IMCO had been unable to attend the final phase of the Conference and had asked him to convey his warmest congratulations to all participants and observers. Two Conventions had been worked out and adopted, and the Conference as a whole had proved to be a striking example of fruitful co-operation between countries. The Secretary-General of IMCO wished, in conclusion, to assure all participants that IMCO would faithfully carry out its obligations as the depositary and administrator of the International Convention for Safe Containers.

Mr. MARSH (Executive Secretary of the Conference) expressed his appreciation of and thanks for the tributes paid to the secretariat of the Conference.

The PRESIDENT thanked the previous speakers and declared the United Nations/IMCO Conference on International Container Traffic closed.

The meeting rose at 6 p.m.